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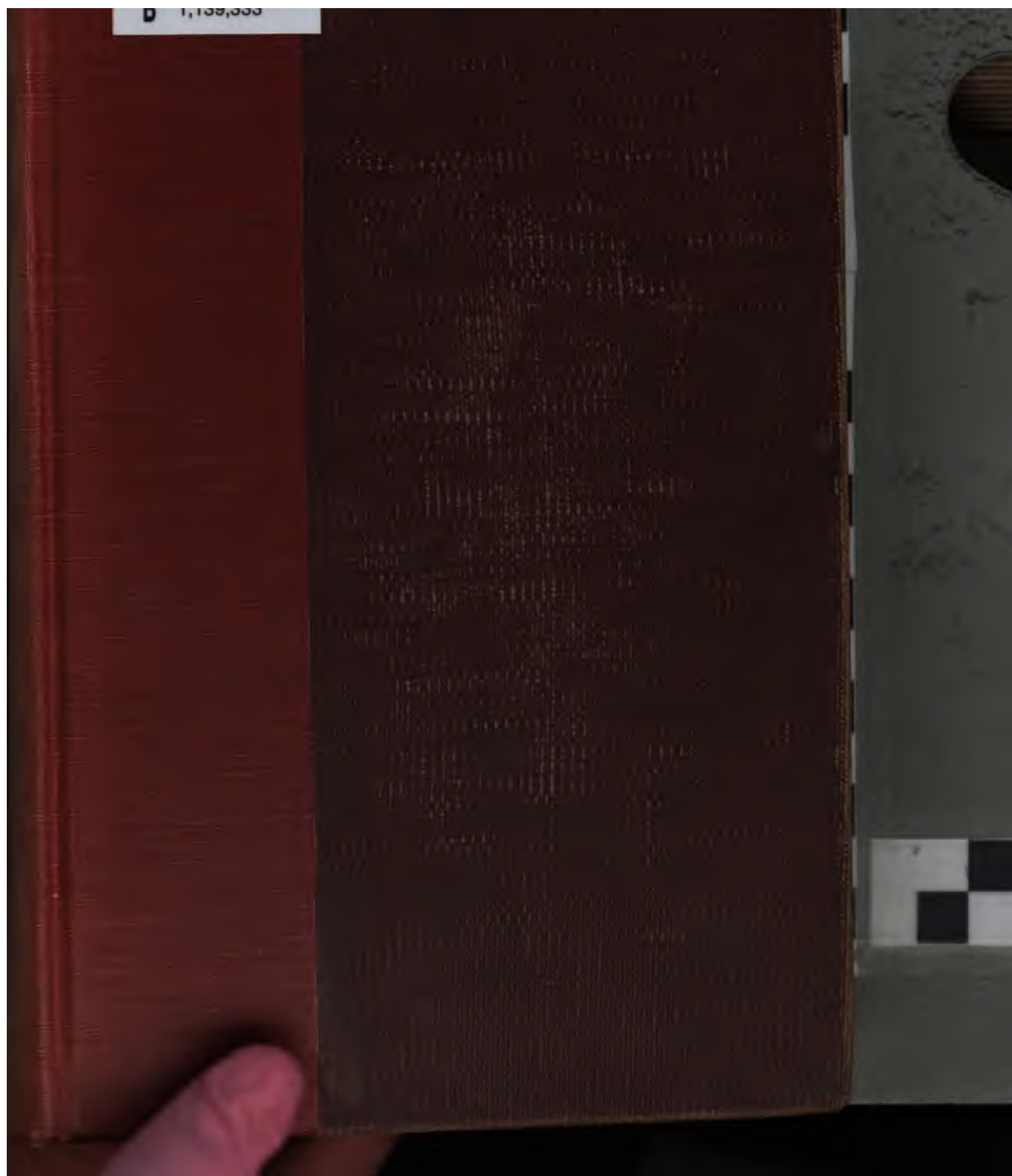
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VOLUME VIII

NUMBER 1

THE AMERICAN EMBARGO 1807-1809

WITH PARTICULAR REFERENCE TO ITS EFFECT
ON INDUSTRY

BY

WALTER WILSON JENNINGS, Ph. D.

Assistant Professor of Commerce

PUBLISHED BY THE UNIVERSITY, IOWA CITY

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EDITOR'S INTRODUCTION

The instinct of the American people has always been averse to war. Whenever a serious national crisis provocative of war has threatened and diplomatic methods have failed, the tendency of the American people has been to resort to measures of commercial coercion rather than to armed force. The philosophy underlying such action is clear enough: since the most fruitful cause of oppressive conduct among nations is the desire for economic advantage in some form or other, the remedy of a peaceful people is to be found in the application of an economic counter-irritant more powerful than the original exciting cause. If there be a fallacy in this position, it is dual in character. In the first place, the economic weapon is always two-edged and, in a world closely knit together by commercial and financial ties, may inflict more injury upon the people wielding it than upon the power against which it is directed. Secondly, it is based upon too naïve an assumption. Granting that the roots of oppression are generally economic in character, any effort to combat that oppression by economic means is likely to arouse nationalistic feelings and instincts that entirely transform the nature of the dispute. Thus economic coercion loses its efficacy as a pacific weapon and leads inevitably to the appeal to arms that it was designed to prevent.

Americans first used economic coercion on a widespread scale in the ten years' controversy preceding the outbreak of the War for Independence. The non-importation and non-consumption regulations of the colonists during the Grenville and Townshend acts proved successful in bringing about modifications of British policy; but the more comprehensive boycott adopted in the later years of the controversy touched deeply British national pride and helped to precipitate the war. In the seventeen-nineties Jefferson and his group sought, without result, to persuade the majority party to revive the boycott for use against Great Britain prior to the

Jay treaty. When Jefferson's party got into power in 1801, it was inevitable that he should bethink himself of non-intercourse as the surest and sanest way out of the difficulties created for the United States by the Napoleonic wars. Professor Jennings in the present monograph confines himself to a study of the embargo, the first and most drastic form of commercial pressure put into operation by the Jefferson administration, and leaves the examination of Madison's coercive measures to later students.

The outbreak of the second war with Great Britain in 1812 did not entirely destroy the faith of the American people in the efficacy of economic non-intercourse as a substitute for war. As the Civil War approached, no measure of relief was perhaps more favorably discussed by southern public men than the adoption of non-intercourse against the manufacturing North; and indeed blacklists of so-called "abolition houses" of the North were published in the southern press although no widespread or concerted action was taken against them. Again, as the World War threatened to draw the United States into its vortex, the time-honored method of coercion was revived in the public prints and served for a time to confuse and complicate the discussions during that critical period. It is worthy of note that one outcome of that great conflict has been to give to this oft-rejected measure international sanction by providing, in the Covenant of the League of Nations, for its employment against recalcitrant members of the League.

In the present study Professor Jennings undertakes to set forth the history of the embargo of Jefferson's time with all its surrounding circumstances. His especial contribution is the searching examination he makes into the economic effects of the embargo and his discussion of the reaction of American public opinion to its operation.

ARTHUR M. SCHLESINGER.

AUTHOR'S PREFACE

The material for this monograph which was first suggested to the author by Professor E. L. Bogart, now head of the Economics Department at the University of Illinois, was obtained largely from the libraries of the universities of Illinois, Wisconsin, and Iowa, and the writer is greatly indebted to the librarians of those institutions for their courteous treatment and help. The valuable newspaper collection at the University of Wisconsin has been of especial service. The use of this material was made possible by the research fund which Carl E. Seashore, Dean of the Graduate School of the University of Iowa, accords to students and teachers who are actively engaged in research work. Miss Jane E. Roberts, librarian of the University of Iowa, has gone to considerable trouble in borrowing certain newspapers from the Library of the History Department of Iowa at Des Moines.

As the work progressed the manuscript grew very bulky; hence it became necessary to summarize three of the original chapters, containing over one hundred typed pages, into ten or twenty pages which were added to the chapter on "The Embargo Laws." These three chapters were originally entitled "Diplomacy of the Embargo," "Arguments on the Embargo in the First Session of Congress, 1807-1808," and "Arguments on the Embargo in the Second Session of Congress till the Passage of the Enforcement Act, 1808-1809."

Professor C. M. Thompson, Dean of the College of Commerce, University of Illinois, has gone carefully over the work of his former pupil and has made valuable suggestions. Professor P. S. Peirce, formerly of the Economics Department of this institution, has also read and criticized the manuscript with care. Professor C. M. Case, of the Sociology Department, Professor Jacob Van der Zee, of the Political Science Department, and Professor A. M. Schlesinger, head of the History Department, have read the manuscript with great care and have offered constructive criticism. The writer wishes to

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acknowledge a special debt to Professor Schlesinger for his valuable suggestions. The merits of the work, if it has any, are largely due to those who have written and advised; its defects are due to the author alone.

WALTER W. JENNINGS.

Iowa City, Iowa, May 20, 1921.

CHAPTER I

INTRODUCTION

During the troubled days following the Revolutionary War and the winning of independence, American industry remained in an unsettled condition. Few powers cared to make treaties with a country which was a single nation one day and thirteen nations on the next. After the adoption of the Constitution, however, conditions grew more stable, industry improved, and the new republic began to command respect abroad.

In 1793, another phase of the life and death struggle between England and France began, and continued, with some intermissions, until Napoleon's overthrow in 1815. During this period the commerce of the United States increased by leaps and bounds. Inasmuch as England's naval superiority soon gave her control of the sea, France and other powers at odds with England had to depend on neutrals to handle their trade. The various products of the French, Spanish and Dutch East and West Indies could find their way to Europe only under a neutral flag, or at great risk and expense. The position of the United States with regard to the West Indies and the long established trade with them naturally threw a large proportion of their commerce into the hands of the new republic. Many Americans also engaged in the more distant trade of the East Indies and other parts of the world. Sugar, coffee, spirits, cocoa, pimento, indigo, pepper, and spices of all kinds were carried directly to Europe or were first brought to the United States and then re-exported to Europe.¹

To this trade Great Britain objected, for orders in council affecting neutral trade began to be issued as early as 1789. With the renewed outbreak of the war in 1803, following the temporary peace of Amiens, however, her objections grew stronger. In the cases of the *Immanuel* and *Polly*, Sir William

¹ Pitkin, Timothy, *Statistical View of the Commerce of the United States of America*, pp. 165, 166.

Scott had laid down the general principle that in spite of the Rule of 1756 which declared that "when a nation closed its colonies to other nations in time of peace, it had no right to open them in time of war, and that if it did, all such commerce was liable to seizure," goods might be carried between the colony and the mother country if the voyage was broken by landing the goods in the United States and passing them through the custom houses. In the case of the *Essex*, July, 1805, Scott, however, decided that the intention of the shipper must be taken into consideration. If that intention was to carry the goods from the mother country to the colony or from the colony to the mother country, he held that landing the goods in a neutral port, satisfying custom-house formalities, or even thoroughly repairing the vessel while there, made absolutely no difference. If the intention was to carry on a trade denied during peace, the cargo, he said, was good prize.²

Such a contention, if persisted in, would wreck the American trade. This trade which had grown rapidly since 1803 reached its high point in 1807. It had increased our tonnage, filled the pockets of individuals, and aided the public treasury. In the years 1805, 1806, and 1807 the value of the exports of domestic produce and manufacture was \$134,590,552, or an average of \$44,863,517 per year; during the same years the exports of foreign produce and manufacture amounted to \$173,105,813 or an average of \$57,701,937 per year. Re-exports thus exceeded domestic exports by \$38,515,261 for the three years or \$12,838,420 per year.³

In each of the years 1806 and 1807 more than one hundred and forty-three million pounds of sugar were exported from the United States. Nearly all this sugar was imported and then re-exported in American vessels. The tonnage employed was approximately seventy thousand, and the freight charges on the cargoes in the two different voyages amounted to probably three or four million dollars. The largest part of the

² Channing, E., *The Jeffersonian System*, pp. 197, 198. The interpretation of the Rule of 1756 is that given by Fish, C. R. in *American Diplomacy*, p. 112. The explanation of the judicial decisions, however, is taken from Professor Channing.

³ Pitkin, T., *op. cit.*, 166.

sugar was sent to Holland, France, Italy, Spain, and Hamburg and Bremen.

Another important re-export was coffee. The amount exported, on an average for the years 1804, 1805, 1806, and 1807 was over forty-five million pounds. The principal destinations to which it was sent were Holland, France, Italy, Hamburg and Bremen, and Great Britain. For the years 1805, 1806, and 1807, the annual quantity of wine exported was 3,423,485 gallons; of spirits, 1,600,301 gallons; of tea, 2,151,385 pounds; of cocoa, 5,937,654 pounds; and of pepper, 5,292,791 pounds.

That this carrying trade added much to our national wealth is evident. Shipbuilding was encouraged; private fortunes were built; the public coffers were filled. Many of the goods and other articles were not entitled to a "drawback," or a return of part or all of the duties paid, because the owners had not complied with the law. The duties collected on articles re-exported, without the "drawback," and naturally not paid by consumers in the United States amounted to \$1,531,618 in 1805, \$1,297,535 in 1806, and \$1,393,877 in 1807. The total for the three years was thus \$4,223,030 or over \$1,407,676 per year. A duty of three and a half per cent retained on the "drawbacks" amounted to \$328,144.79 in 1805, \$334,247.39 in 1806, and \$368,275.50 in 1807. These figures added to the previous ones will give a total of \$5,253,697.68 or \$1,751,232.56 per year contributed to the public treasury and not paid for by the people of the United States, or an amount equal to one ninth of all duties collected or secured during the period.*

A more detailed study of the trade of the United States with some of the leading countries of the world for the years 1805, 1806, and 1807 may be of interest. The value of the exports of products sent to Great Britain and Ireland was, for domestic produce, \$13,939,663 in 1805; \$12,737,913 in 1806; and \$21,122,332 in 1807; the corresponding figures for the foreign produce were \$1,472,600, \$2,855,583, and \$2,027,650. The resulting annual totals were \$15,412,263, \$15,593,496, and \$23,149,982. The grand total for the three years was \$54,155,-

* Pitkin, T., *op. cit.*, pp. 168-175.

741 or over \$18,051,913 per year. The principal articles exported to Great Britain and Ireland were: cotton, tobacco, rice, sometimes wheat and flour, flax seed, naval stores such as pitch, tar, and turpentine, timber and planks, staves and heading, pot and pearl ashes, and whale and spermaceti oil. Our importations from Great Britain and Ireland were largely manufactured goods of various kinds including wool, cotton, silk, flax, brass, copper, earthen ware, haberdashery, iron, steel, lead, hats, salt, tin, pewter, coal, beer, ale, and porter. British produce and manufacture exported to the United States amounted to £11,716,620 in 1806 and £11,119,048 in 1807. Besides, in these years foreign merchandise was exported from Great Britain to the United States to the value of £458,875 and £253,822. The totals were thus £12,175,495 and £11,372,870. The imports and exports of the United States were greater in 1806 and 1807 than in any former year. Probably about one-third of the goods imported from Great Britain, especially in 1806, was exported again to the West Indies, South America, or elsewhere. Since the value of exports was determined by the price of the articles at the place of exportation, the balance of trade against us was not so great as appeared. Many of the articles were bulky and were carried by our own vessels. Thus in 1807, 489 American ships with a tonnage of 123,545 cleared from Liverpool. The cost of transportation and a reasonable profit to the shipper, then estimated at about twenty per cent, should be added to the value of the exports. The balance was paid by the trade with the West Indies and other parts of the world.⁵

A branch of the British trade that deserves particular mention is that with the British West Indies. During the colonial period this trade had been particularly important. In fact, the Sugar Act of 1764 which had well-nigh closed the trade and shut off the specie which we had used in paying for British manufactured goods coupled with the prohibition of the issue of paper money, was probably a more important cause of the Revolutionary War than the Stamp Act of 1765. After the winning of independence further restrictions were

⁵ *Ibid.*, pp. 196-208.

placed on the British West India trade, but nevertheless large quantities of our lumber, fish, flour, beef, pork, horses, live cattle, Indian corn and meal, peas, beans, etc. found their way from time to time to the British West Indies. Probably half of our lumber exports went to the British West Indies in 1805, 1806, and 1807. Staves and heading to the number of 15,408,000 were sent there in 1805, 20,645,000 in 1806, and 16,800,000 in 1807. In the same years nearly twice as many shingles were sent there as to all other places: 41,784,000 in 1805, 52,506,000 in 1806, and 43,501,000 in 1807. Approximately one half our boards and planks were also sent to the British West Indies. The figures were 36,975,000 in 1805, 42,096,000 in 1806, and 36,205,000 in 1807.⁶ Large quantities of fish and flour, but a much smaller proportion of the totals, were also exported to the British West Indies. In 1807, 251,706 barrels of flour were exported to these islands. The value of the flour, bread and biscuit, exported, 1802-1804, averaged about two million dollars yearly; of beef, pork, bacon, and lard eight hundred thousand. The quantity of rum imported during the same period was about four million gallons, valued at two and one-half million dollars. The number of gallons imported during 1805-1807 averaged about 4,614,000 yearly. The value of our exports to the British West Indies averaged \$6,056,259.33, 1802-1804; our imports \$4,572,979, and our total commerce \$10,629,238.33. Since our own ships were employed in this trade, the profits and advantages went largely to American merchants.⁷

Many British writers inclined to the view that their British West Indies could be largely supplied from their North American colonies, but they were not so supplied previous to the American embargo. For the years 1804-1806, the average amount furnished, according to Pitkin, was:

⁶ *Ibid.*, pp. 95-99.

⁷ *Ibid.*, pp. 214-217.

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	From the U. S.	British Provinces	Great Britain and Ireland	Other Countries
Flour, meal, and bread (cwt.)	463,505	2,789	34,495	7,667
Corn, oats, peas, and beans (bu.)	406,189	3,276	183,168	4,432
Rice (bbls.)	11,740	6	50	139
Pork and beef (bbls.)	54,114	1,642	54,571	385
Fish, dry cod, etc. (cwt.)	138,484	101,692	3,302	3,298
Fish, salt or pickled (bbls.)	38,171	27,800	57,698	991
Butter (firkins)	8,050	204	49,818	80
Cows and oxen	4,145	3	8	1,123
Sheep and hogs	3,484	44		314
Oak and pine boards and timber (ft.)	39,022,997	942,122		101,330
Staves (pieces)	17,605,687	525,026		264,500
Shingles	43,051,704	332,925		13,000 ^s

A careful examination of the above table shows that in only three items, the exportation of butter, salt or pickled fish, and pork and beef, did Great Britain and Ireland lead the United States. In the first case her exports were over six times as great, in the second about fifty per cent more, but in the third case less than one per cent greater. In all other cases, the imports of the British West Indies from the United States led all other imports combined by substantial margins. Thus over nine-tenths of the flour, meal and bread came from the United States, two-thirds of the corn, oats, peas, and beans, practically all of the rice, three-fourths of the cows and oxen, over ninety per cent of the sheep and hogs, and practically all of the lumber.

The trade of the United States with France and her dependencies was important during this period. The principal exports were cotton, tobacco, rice, dried fish, whale and spermaceti oil, pot and pearl ashes, and naval stores of the domestic produce, and of foreign origin, sugar, coffee, teas, cocoa, pepper, and other spices. The principal imports were wines, brandies, silks, olive oil, and jewelry of various kinds. During the years 1804-1807 the average value of the exports of do-

^s *Ibid.*, p. 218.

mestic produce was \$3,060,203.25, but of foreign produce it was \$8,500,979 or nearly three times as great.⁹

Ordinarily France imposed restrictions on foreign trade with her West India possessions. Like Great Britain she admitted all kinds of lumber, live provisions, vegetables, rice, pitch, and tar because she could not supply those articles herself. Great Britain generally excluded American beef, pork, and dried fish, but France admitted American beef and dried cod fish, though she subjected them to an additional duty of three livres on each quintal in order to encourage her own fisheries. England allowed the importation of flour, bread, biscuit, and various grains, but France, by a general law, excluded flour and all grains except Indian corn. France allowed her colonies to send only rum and molasses to the United States; Great Britain permitted not only rum and molasses, but also sugar, coffee, cocoa nuts, ginger, and pimentos to come. The latter, in order to increase her naval supremacy, confined both imports and exports to her own vessels. Since the former had few ships, she allowed the products to go in American vessels. Her policy was to monopolize the articles themselves; that of Great Britain was to monopolize the carriage of the articles. The former reserved the most valuable products for consumption at home and to augment the national wealth. During the wars many restrictions, particularly those of France, were not enforced. The average value of the American exports of domestic production to the French West Indies and American colonies, 1804-1807, was \$2,572,660 and of exports of foreign produce, \$3,316,762.25.¹⁰

The exports to Spain consisted largely of fish, flour, whale oil, rice, and tobacco of the domestic produce and of cocoa, coffee, sugar, pepper, and other spices of foreign produce. The imports from Spain were largely brandies, wines, fruits of various kinds, and salt. The exports of domestic produce averaged \$1,793,963, 1804-1807, and the exports of foreign produce \$1,890,079. It is noteworthy, however, that in 1804 the exports of domestic produce were four times as great as those of foreign produce, while in 1807 the exports of foreign

⁹ *Ibid.*, pp. 219-223.

¹⁰ *Ibid.*, pp. 223-226.

produce were three times as great as those of domestic produce. During these four years, too, the value of exports of domestic origin fell half while the exports of foreign produce increased about six fold.¹¹

During the European wars our trade with the Spanish West Indies and the American colonies increased greatly. Our shippers carried the products of the Spanish islands, and, in large part, supplied those islands with the various manufactures of Europe. Our exports of domestic produce to the Spanish West Indies and American colonies averaged \$2,348,354.50 during 1804-1807; the exports of foreign produce averaged \$6,102,147 for the same period. In 1804 the exports of domestic produce were nearly forty-seven per cent greater than those of foreign produce. In 1807, however, the latter were about three hundred per cent greater. During the four years the value of exports of domestic origin increased forty-three per cent; during the same period the value of exports of foreign origin increased nearly 739 per cent. Naturally American shippers made fortunes from this carrying trade.¹²

As a general thing the United States exported wheat, flour, corn, rice, dried fish, whale oil, soap, and staves and heading to Portugal and Madeira. She received in return wines, fruit, and salt. The exports to Portugal were small as compared with those to Spain, and unlike the latter in that the exports of articles of domestic produce exceeded in value the exports of foreign produce. The value of the former was \$1,282,169 in 1804, \$508,284 in 1805, \$920,841 in 1806, and \$829,313 in 1807; the value of exports of foreign produce for the same years was \$190,716, \$851,647, \$857,050, and \$159,173. The average was thus seventy-two per cent greater for the former, or \$885,151.75 as compared to \$514,646.50. In only one of the years, 1805, did the exports of foreign produce exceed those of domestic produce; in 1804 the latter were about six times as great and in 1807 over five times as great.¹³

Trade with northern Europe was not so important as trade with southwestern Europe. Among our exports to Russia

¹¹ *Ibid.*, pp. 226-228.

¹² *Ibid.*, pp. 228-230.

¹³ *Ibid.*, pp. 230, 231.

were cotton, rice, tobacco, and spirits of domestic origin, and sugar and coffee, with some pepper, tea, and cocoa of foreign origin. The exports of domestic origin were worth \$12,044 in 1805, \$3,580 in 1806, and \$78,850 in 1807; the exports of foreign origin were worth in the same years \$59,328, \$8,827, and \$366,367. The average value of the former was \$31,491.33 and of the latter \$144,840.67. Iron, hemp, cordage, duck and various kinds of hemp and flax such as drillings, diapers, broad and narrow tickings, sheetings, etc. were returned in exchange. The average amount of goods paying duties according to Russian value and including iron, hemp, flax, etc. was \$1,302,217 for 1802, 1803, and 1804. Of this amount, hemp was worth over half or \$779,473. In 1807 the amount of our imports from Russia was \$1,804,000 or about four times as great as our exports which amounted to \$445,217.¹⁴

Commerce with Sweden was small until the adoption of commercial restrictions. As in the case of Russia we bought more from Sweden than we sold her, though the discrepancy was not so great. Our principal exports were tobacco and rice; our principal import was iron. The trade with the Swedish West Indies, however, was much greater. Thus from 1795 to 1801 our exports to them were more than eleven times as great as to Sweden, and the value of our imports from them was over six times as great; the averages were six hundred and eighty-five thousand dollars and five hundred thousand. In 1807 we exported to the Swedish West Indies \$416,509 worth of domestic produce and \$911,155 worth of foreign produce. In the same year we imported 92,858 gallons of rum, 37,764 gallons of molasses, 2,752,412 pounds of sugar, and 1,705,670 pounds of coffee.¹⁵

Greater than the trade with Sweden was the trade with Denmark and Norway. The average value of the exports of the United States to the two countries from 1795 to 1801 was about six hundred thousand dollars; the imports from them for the same period averaged four hundred thousand dollars. During the years 1805, 1806, and 1807 the exports of domestic produce were worth \$435,926, \$356,595, and \$572,150 respec-

¹⁴ *Ibid.*, pp. 232-235.

¹⁵ *Ibid.*, pp. 235, 236.

tively; the exports of foreign produce for the same years were \$1,481,767, \$1,052,954, and \$836,468. The average of each for the three year period was \$454,890.33 and \$1,123,729.67. Cotton, tobacco, rice, and sugar were the principal exports. The trade with the Danish West Indies was even greater than the trade with Denmark itself. The average value of the exports of domestic origin, 1804-1807, was \$1,407,366; of foreign origin, \$1,025,976.25. During the four year period the exports of the former increased about fifty per cent, whereas the latter increased over one hundred and thirty-four per cent. Nevertheless, in not one of the four years did the exports of foreign produce exceed the exports of domestic produce.¹⁶

During the European wars the trade of the United States with Hamburg and Bremen, especially the former, was very great. The Elbe and Weser and other waters carried the manufactures of Germany, especially linens, from their place of origin to Hamburg, the great depot of this commerce. The products received in exchange from the United States were tobacco, rice, cotton, spirits from molasses, whale oil, pot and pearl ashes, sugar, coffee, teas, cocoa, pepper, and other spices. Until Napoleon got control of the cities the trade was valuable far beyond the imagination of most persons. For the years 1795-1801 the average value of our exports to those cities was \$11,542,625.43 and of our imports from them \$3,821,131.57. The high point came in 1799 when our exports were valued at \$17,144,400 and our imports at \$6,919,425. The total value of our exports of domestic origin for 1804-1807 was \$4,427,725 or \$1,106,931.25 per year; the total value of the exports of foreign produce during the same period was \$12,864,296, or \$3,216,074 per year. The exports of 1799 alone were thus practically equal to those of the four years, 1804-1807.¹⁷

The trade with Holland was also particularly important to the American merchants. Of course, as with other countries, restrictions of the warring powers interfered more or less, but evasion was not particularly difficult, and many a fortune was made. For the years, 1804-1807, the average value of the exports of domestic origin from the United States to Holland

¹⁶ *Ibid.*, pp. 237-239.

¹⁷ *Ibid.*, pp. 239-241.

was \$2,638,964.75, and of foreign origin \$13,713,551.75. The articles of domestic produce usually exported were tobacco, rice, cotton, pot and pearl ashes, whale oil, and spirits from molasses. For the years 1804-1807, 213,803,691 pounds of sugar, or 53,450,922 $\frac{3}{4}$ pounds per year, were shipped to Holland; of this amount 178,859,694 pounds, or about eighty-four per cent, was brown. During the same years the coffee exported amounted to 91,511,826 pounds, or 22,877,956 $\frac{1}{2}$ pounds per year. The usual imports from Holland were woollens, linens, spirits from grain, nails, spikes, manufactures of lead, paints, steel, cheese, glass, anchors, shot, slit and hoop iron. For the years 1802, 1803, and 1804 the average amount of goods paying ad valorem duties was \$1,110,354; in 1807 it was \$1,881,741. For these three years the amount of gin imported into the United States was 1,059,540 gallons; in 1807, it was 1,463,000 gallons. The exports usually far exceeded the imports in value; the balance was generally paid in bills of exchange on England and other parts of Europe.¹⁸

The commerce of the United States with the Dutch West Indies was less important than the trade with the mother country. The exports of domestic produce, 1804-1807, amounted to \$3,121,867 or \$780,466.75 per year; the exports of foreign produce during the same period amounted to \$1,761,001 or \$440,250.25 per year. The total exports in the first year were worth a little more than those in the other three years combined. The United States imported large quantities of coffee, sugar, pepper and other spices from the Dutch East Indies; they were paid for in money, bills of exchange, or cargoes shipped from Europe. When the Dutch were compelled to engage in the European wars, this trade was thrown into the hands of the American merchants. In 1801, it was valued at \$4,430,733. In 1804, 8,395,783 pounds of coffee valued at \$2,098,945 were imported from the Dutch East Indies and the Cape of Good Hope; in 1807, the amount imported was 8,842,568 pounds. In 1804, 4,946,284 pounds of pepper were imported; in 1807, 2,508,897 pounds.¹⁹

The trade of the United States with Italy was of some im-

¹⁸ *Ibid.*, pp. 241-243.

¹⁹ *Ibid.*, pp. 243-245.

portance. The exports were dried fish, sugar, coffee, pepper, and cocoa; the imports were silks, wines, brandies, fruit, lead, and cheese. The exports for the seven years, 1795-1801, amounted to \$10,362,391; during the same period the imports amounted to \$4,925,230, or less than half as much as the exports. By far the larger part of the exports were those of foreign origin. In 1804 they were worth \$1,552,708; in 1805, \$2,320,099; in 1806, \$4,587,727; in 1807, \$5,499,722. For the same years the exports of domestic origin amounted to \$118,441, \$142,475, \$185,346, and \$250,257. The latter amounted to \$696,519 for the four years; the former, to \$13,960,256, or more than twenty times as much.²⁰

Our trade with China began soon after the Revolutionary War. The first American vessel to engage in this trade left New York, February 22, 1784 and returned May 11, 1785. This vessel of 360 tons was small, but not for that day. It was commanded by Captain John Green and Samuel Shaw. The Americans were favorably received by the Chinese government, and thereafter our trade increased. In 1789 fifteen American vessels were at Canton. No other nation, save Great Britain, had a larger number. Our principal imports from China were teas, silks, nankeens, and China ware. Tea was the most valuable. The imports of tea, 1790-1800, amounted to 28,000,548 pounds, or an average of 2,545,504 pounds a year. Much of this, however, was re-exported. During the years 1804-1807 the amount imported was 23,721,849 pounds, the amount exported 7,673,389 pounds, and the amount consumed 16,048,460 pounds. The average value of goods paying ad valorem duties, nankeens, all silk and cotton goods, and China ware, imported from China and other Asiatic powers, 1802-1804, was about \$2,300,000; for the years 1805-1807, it was \$1,938,240. The balance of trade was decidedly against the United States, for few articles, domestic or foreign, were shipped direct from the United States to China. Payments were made, as a usual thing, in specie, or in seal-skins taken in the South Seas and furs obtained on the northwest coast of America. These were carried direct to China without being brought to the United States. The first voyage of this kind undertaken by an American was that of Captain Kendrick of

²⁰ *Ibid.*, pp. 245, 246.

Boston in 1789. High prices obtained for furs tempted others, but the hunting was overdone, and the seal soon became so scarce as to be hardly worth the pursuit.²¹

The total value of all the goods imported into the United States for the year ending September 30, 1807, was \$138,574,-876.84. The twelve most important articles or groups, exclusive of goods subject to advalorem duties, were:

Sugars	\$23,441,663.60
Coffee	16,470,947.08
Alcoholic liquors	15,311,132.94
Tea	5,117,706.32
Molasses	3,064,044.24
Cocoa	2,297,961.00
Hemp	2,116,605.00
Indigo	1,849,529.76
Salt	1,876,694.81
Fish	1,368,821.00
Spices	1,201,092.35
Cotton	1,047,139.70 ²²

In order to show more clearly the value of the export carrying trade during the early part of the nineteenth century the following table is given:

Years	Europe		Asia	
	Domestic	Foreign	Domestic	Foreign
1801	\$27,569,699	\$31,380,558	\$371,737	\$1,136,517
1802	19,904,389	23,575,108	547,386	820,423
1803	25,939,111	8,561,834	292,593	149,600
1804	23,094,946	27,468,725	546,278	830,223
1805	23,640,776	36,341,320	612,683	2,156,229
1806	24,384,020	40,267,711	514,621	1,968,860
1807	31,012,947	38,882,633	497,769	1,598,445
Years	Africa		West Indies, Am. Cont., etc.	
	Domestic	Foreign	Domestic	Foreign
1801	\$ 934,331	\$ 756,445	\$17,482,025	\$13,369,201
1802	747,544	411,855	14,982,854	10,967,585
1803	636,106	148,004	15,338,151	4,734,634
1804	1,264,737	681,499	16,561,516	7,251,150
1805	1,359,518	1,726,987	16,774,025	12,954,483
1806	1,371,475	901,916	14,983,611	17,144,759
1807	1,296,375	1,627,177	15,892,501	17,535,303 ²³

²¹ *Ibid.*, pp. 246-249.

²² Compiled from table in *ibid.*, pp. 256, 257.

²³ *Ibid.*, pp. 275, 276.

The average amount of exports of domestic produce for 1805, 1806, and 1807 was \$44,863,198, and of foreign produce \$57,701,937. About three-fifths of the exports of domestic origin went to Europe, four-elevenths to the West Indies and American continent, but less than one-twentieth to Asia and Africa. In 1807, our total exports were estimated at \$108,343,150 and our imports at \$138,574,876.84. In that year, however, the value of imports was calculated from the prices at which these articles, when exported, were valued at the custom house. From this method of calculation and from the fact that American merchants had been their own carriers for years, there seems much justification for Pitkin's statement, "that the real gain of the United States has been nearly in proportion as their imports have exceeded their exports." This will be made clearer by an illustration. An American owned vessel carried five thousand barrels of flour for an American merchant to Spain. This flour, valued at \$9.50 per barrel, made the cargo worth \$47,500 at the place of exportation. In Spain, however, the flour brought fifteen dollars a barrel or seventy-five thousand dollars. The difference, \$27,500, arose from necessary charges as freight, insurance, commissions, profits, etc. With the proceeds brought directly home the value of the imports arising would obviously be seventy-five thousand dollars, and the difference between that sum and \$47,500, or \$27,500 was gain for the United States and its citizens. The returns, however, usually came in foreign articles rather than money alone. Freight and other expenses on the return cargo, with a profit more or less reasonable, were counted in the value of the articles and thus increased "the difference between the estimated value of the imported and exported cargo."²⁴

²⁴ *Ibid.*, pp. 276-281.

CHAPTER II

FOREIGN RESTRICTIONS ON COMMERCE

As pointed out in the previous chapter, American commerce thrived during the early phases of the European conflict. While England and France were fighting for military, naval, and commercial supremacy, the United States was reaping a rich harvest. Her combined exports and imports increased from forty-eight million dollars in 1791 to two hundred and five million dollars in 1801, and after a temporary decline, 1802-1803, to two hundred and forty-seven million in 1807. During the latter part of this period freight earnings amounted to \$32,500,000 per year. The United States was thus rapidly pushing towards commercial supremacy.¹

However, after the lull in European warfare, 1802-1803, the fighting broke out with greater fury than ever, and lasted, with scarcely a respite, until Napoleon's overthrow at Waterloo in June, 1815. During this period restriction after restriction was placed on neutral commerce, not primarily with the intention of destroying neutrals, but of injuring the enemy. In a life and death struggle then, as well as in more recent years, however, the warring parties were not scrupulous in their observance of the rights of others.

From March 25, 1793, through October 14, 1808, there were thirty-one acts or orders in council by Great Britain which affected the United States.² Only those of 1806, 1807, and 1808 will be considered here. On April 8, 1806, the principal Secretary of State for Foreign Affairs, Charles James Fox, wrote James Monroe, our minister to England, that his country had determined to establish and maintain "the most rigorous blockade at the entrance of the Ems, the Weser, the Elbe, and the Trave." This step, he held, was justified, because the King of Prussia had forcibly taken possession of

¹ Bogart, E. L., *Economic History of the United States*, pp. 121, 122.

² *American State Papers, Class I, Foreign Relations*, Vol. III, p. 263.

certain parts of the electorate of Hanover and other territory belonging to the English king, and had given notice of an intention to exclude all British ships from the ports of Prussia and certain other parts of northern Europe.³

3. A little over a month later, May 16, 1806, Fox again wrote to Monroe, this time to notify him of the blockade of the European coast from the river Elbe to the port of Brest inclusive. This blockade, however, was not absolute. Neutral ships laden with neutral goods, not contraband of war, could trade with this region, except from Ostend to the Seine, provided the vessels had not been loaded in enemy ports, and were not in the possession of an enemy, and provided, moreover, that the vessels sailing from those rivers and ports should not be destined to any territory in the possession of the enemy, or guilty of having previously broken the blockade.⁴ A few months later September 25, 1806, this blockade was so modified as to allow a little more trade, for Lord Howick, now principal Secretary of State for Foreign Affairs, notified Monroe that "so much of the blockade as extended from the river Elbe to the river Ems, both inclusive, is for the present discontinued."⁵

3 On January 7, 1807, England forbade any vessel trading from one port to another if both ports were in the possession of France or her allies, or so far under their control as to exclude British ships therefrom. Ships of war and privateers were instructed to warn neutral vessels of the blockade. Vessels disregarding the warning and those sailing for such destinations after a reasonable length of time for the acquisition of information by them had elapsed were subject to capture. Four principal reasons were advanced for the action of the English:

(1) The prohibition by France of commerce between neutral nations to interfere or France to retract her decrees; nations in any article of English growth, produce, or manufacture;

³ *American State Papers*, p. 267.

⁴ *Ibid.*, p. 267.

⁵ *Ibid.*, p. 267.

- (2) The proclamation by France of a "paper blockade" of British dominions;
- (3) The unquestionable right of retaliation;
- (4) The right of defense of English interests against unjust attacks.⁶

On June 26, 1807, David M. Erskine, Envoy Extraordinary and Minister Plenipotentiary of England to the United States, then residing at Philadelphia, wrote to the American Secretary of State that the English king, because of the French success on the continent, which enabled Napoleon to command the mouths of the Ems, Weser, and Elbe, had seen fit to reestablish "the most vigorous blockade at the entrance of those rivers."

Later in the year a proclamation dated October 16, 1807, was intended to recall and prohibit British seamen from serving foreign princes and states. English officers were authorized to stop and search merchant ships for such persons, but to refrain from unnecessary violence. Foreign warships were not to be treated in this way. Letters of naturalization or certificates of citizenship from foreign states were not considered valid for native-born English subjects. All such subjects who had taken out foreign citizenship were assured a full and free pardon provided they returned to their allegiance at once. If they did not do so, they were liable to punishment for contempt. Masters of ships, pilots, marines, seamen, shipwrights, and other seafaring men, native-born subjects of Great Britain, if captured in foreign service by the Algerians or other powers of northern Africa and carried into slavery, would not be reclaimed as subjects of Great Britain. All subjects who had entered or who thereafter should voluntarily enter into the service of a state at war with England were declared guilty of high treason and subject to the extreme penalty therefor.⁷

On November 11, 1807, new and very drastic orders in council were issued. The reasons premised were:

- (1) French decrees declaring British Isles in a state of

⁶ *Ibid.*, pp. 267, 268.

⁷ *Ibid.*, p. 268.

⁸ *Ibid.*, p. 268.

blockade and subjecting "to capture and condemnation all vessels with their cargoes which should continue to trade with His Majesty's dominions;"

(2) The prohibition by the same order of all trade in English merchandise, and declaration that all merchandise belonging to England or her colonies was lawful prize;

(3) The assent to such orders by all nations in alliance with or under the control of France;

(4) The failure of the orders of January 7, 1807 to induce neutral nations to interfere or France to retract her decrees;

(5) The necessity of taking stronger measures to secure due respect for English rights.

The severity of the orders is indicated by the fact "that all the ports and places of France and her allies," and of all colonies belonging to England's enemies, were subjected to the same restrictions, with certain exceptions, as if they were actually blockaded "in the most strict and rigorous manner." Trade in the products of those countries or colonies was, moreover, declared unlawful, and every vessel violating the order subject to capture and condemnation "as prize to the captors."⁹

Trade, however, as previously intimated, was allowed on certain conditions. A vessel of a country not subject to restrictions of blockade might under certain prescribed conditions carry the products of its own country, or trade from a free port in an English colony to some ports in enemy territory, or from the colonies direct to the country to which the vessel belonged, or to some free port in an English colony, "in such cases, and with such articles, as it may be lawful to import into such free port." The order, moreover, exempted vessels and cargoes of countries not at war with England provided they had cleared out under regulations prescribed by the English and proceeded direct from some place in England, Gibraltar, Malta, or a port of England's allies to the place specified in the clearance papers. Neither did the order apply to the vessel or cargo of a neutral coming from a blockaded port to English territory, and on a direct voyage thereto.¹⁰

⁹ *Ibid.*, p. 269.

¹⁰ *Ibid.*, p. 269.

Certain specified goods of countries not at peace with Great Britain were allowed to be imported in neutral ships subject to duties and liable to "drawbacks," if coming in "ships navigated according to law." Such goods were to be reported for exportation to any neutral or any ally of Great Britain. Exportation and importation were to be directed by British license. A more specific permission, nevertheless, was necessary for the exportation of coffee, sugar, wine, brandy, snuff, and tobacco. Orders of the same day declared illegal the sale to a neutral of any vessel belonging to an enemy of England.¹¹

These orders in council, though drastic, were considerably modified from the early drafts. Thus "the sweeping doctrine of retaliation was omitted" because of Lord Bathurst's objections.

"The assertion that neutrals had acquiesced in the Berlin Decree," said Henry Adams, "was struck out; the preamble was reduced, by Lord Eldon's advice, to a mere mention of the French pretended blockade, and of Napoleon's real prohibition of British commerce, followed by a few short paragraphs reciting that Lord Howick's order of January 7, 1807 had not answered the desired purpose either of compelling the enemy to recall those orders or of inducing neutral nations to interpose with effect to obtain their revocation, but on the contrary the same have been recently enforced with increased vigor; and then, with the blunt assertion that 'his Majesty, under these circumstances, finds himself compelled to take further measures for asserting and vindicating his just rights,' Perceval, without more apologies, ordered in effect that all American commerce, except that to Sweden and the West Indies, should pass through some British port and take out a British license."¹²

The orders were hard to comprehend; British merchants could not understand them. New ones "explaining, correcting, and developing Perceval's not too lucid style" caused the dissatisfied Liberals to declare that the English minister intended for the merchants to pay "two guineas for a legal opinion, with the benefit of a chance to get a directly contrary opinion for the sum of two guineas more." The general understanding was that all American commerce with the enemies of England had to go through British ports with

¹¹ *Ibid.*, p. 270.

¹² Adams, Henry., *History of the United States*, Vol. IV, pp. 102, 103.

license, but that all colonial products would have to pay a tax into the British treasury, which would thereby increase its price to the enemy. Cotton, however, was not allowed to enter France. The general intention, nevertheless, was clear enough. "After November 11, 1807, any American vessel carrying any cargo was liable to capture if it sailed for any port in Europe from which the British flag was excluded. In other words, American commerce was made English."¹³ Still, neither the order in council of November 11 nor the impressment proclamation of October 17 was regarded as cause for war.¹⁴

On November 25, 1807 a new order in council set the date at which the orders of November 11, 1807 should be presumed to have been heard at certain places. If vessels sailed twenty days later than that time, they with their cargoes were exempt from seizure, if loading had commenced previous to that period. If they sailed later than that, they were subject to capture, and proof that the orders had not been received was not allowed in the courts. Seizure of vessels and cargoes would, of course, result.¹⁵

All neutral vessels were allowed to land in British ports English produce or manufacture, East India goods, prize goods lawfully imported, and foreign goods or produce if lawfully imported under a British license previously granted for that purpose. These goods, if clearance papers had been obtained, could be taken to any enemy colony in the West Indies or America, subject to the payment of export duties to the British treasury, if those colonies were not in a state of actual blockade. Naval and military stores were exempt from this provision as well as foreign sugar, coffee, wine, brandy, snuff, and cotton. These—the last six mentioned—could, if lawfully imported, be exported to designated ports, under special license, provided license had been "previously obtained for the exportation and conveyance thereof." Goods had to be duly entered and landed in a British post, as a usual thing. Neutral vessels might clear from Guernsey,

¹³ *Ibid.*, Vol. IV, p. 103.

¹⁴ *Ibid.*, Vol. IV, p. 104.

¹⁵ *American State Papers, Class I, Foreign Relations*, Vol. III, pp. 270, 271.

Jersey, or Man, under restrictions of the order, to a port specified in the clearance papers if that port was not in a state of actual blockade. They could take articles legally imported direct from any port or place in the kingdom, if said articles were not naval or military stores. If the articles had been imported to those places from blockaded territory, they could be taken only to ports or places of the British kingdom.¹⁶

In order to encourage the trade from Gibraltar and Malta to countries under restrictions of the order of November 11, a new order of November 25, 1807 declared that flour, meal, grain, tobacco, and other articles in an unmanufactured state, if the growth of a country not subject to the blockade, save only cotton, naval, and military stores, imported into Gibraltar or Malta direct from the producer could, without any license, be cleared out to a port not in actual blockade without being first landed. Cotton, no matter how imported, and articles not of English growth or manufacture, or not imported in a British ship or from the English kingdom direct, except fish, if laden after the time for carrying the orders of November 11 into effect, should not be exported from Gibraltar or Malta save to some part of the British kingdom. All other products of the English kingdom, products carried in a British ship, or articles carried from some place in the British kingdom, together with fish, might be exported to Mediterranean or Portuguese ports under licenses granted by the governors of Gibraltar and Malta. Vessels of the Barbary states were allowed to go anywhere in the Mediterranean or Portugal, if such places were not actually blockaded by the British or their allies, without first stopping at Gibraltar or Malta.¹⁷

At the same time, November 25, 1807, another order declared that nothing in the order of November 11 should be construed "to subject to capture and confiscation any articles of the produce and manufacture of the said countries and colonies laden on board British ships, which would not have

¹⁶ *Ibid.*, pp. 271, 272.

¹⁷ *Ibid.*, p. 272.

been subject to capture and confiscation if such order had not been made."¹⁸

On the same day, November 25, England declared that ships and goods belonging to citizens of Lubeck and seized after the order in council of November 19, 1806, when declared by the admiralty courts "to belong to subjects or inhabitants of Prussia or Lubeck, and not otherwise liable to confiscation," should be allowed to go to a neutral port or the port to which they belonged. Moreover, until further orders, such ships were not liable to detention provided they traded to and from the ports of the British kingdom, between neutral ports, or from ports of English allies and proceeded at once to the port mentioned in their respective clearance papers.¹⁹

Likewise at the same time, November 25, the English government ordered that all Portuguese ships and cargoes, if so pronounced by the English courts, "and not otherwise liable to confiscation," should be restored and allowed to proceed to Portugal or to any neutral port. Moreover, Portuguese goods and ships were not to be subject to capture in the future if they were trading between British ports, to and from Gibraltar or Malta directly with the port specified in the clearance papers, between neutral ports, between Portugal and her colonies, or directly from ports of English allies to ports specified in their clearance papers, provided those ports were not then in a state of actual blockade. The order specifically stated, however, that Portuguese ships were not to be considered as entitled by any treaty to the protection of goods which might otherwise be subject to confiscation.²⁰

Under date of January 8, 1808, George Canning, then principal Secretary of State for Foreign Affairs, wrote William Pinckney, our minister to England, that the king had "judged it expedient to establish the most rigorous blockade at the entrance of the ports of Carthagena, Cadiz, and St. Lucar, and of all the intermediate ports situated and lying between

¹⁸ *Ibid.*, p. 273.

¹⁹ *Ibid.*, p. 273.

²⁰ *Ibid.*, p. 273.

the ports of Carthagena and St. Lucar." He asked Pinckney to inform American consuls and merchants in England that the afore-mentioned ports must be considered in a state of blockade and that any vessels attempting to violate the blockade would be dealt with according to the law of nations and treaties.²¹

A lengthy act of Parliament, March 28, 1808, in furtherance of certain orders in council, made numerous provisions for enforcement and was accompanied by several tables showing duties which undoubtedly caused thousands of pounds to be turned into the British treasury.²² Possibly in order to encourage the violation of the embargo by American vessels, instructions were given to commanders of English war vessels and privateers not to "interrupt any neutral vessel laden with lumber and provisions" bound to the English West Indies or South America, no matter to whom the property belonged or what irregularities appeared in the clearance papers or official documents. Moreover, official endorsement was to be accorded to the vessel and she was to be allowed to depart with cargo "and to proceed to any unblockaded port, notwithstanding the present hostilities, or any future hostilities which may take place," under the protection of an official.²³

On April 14, 1808, the British Parliament prohibited the exportation of cotton-wool from Great Britain. The act declared, however, that the king, by license under his royal sign manual, might authorize any person to export cotton-wool to neutral states under terms specified in the license. The act did not prohibit the carrying of cotton-wool in the British coastwise trade, but careful precautions were taken to make sure that it was genuine coast trade. Cotton-wool carried in violation of the act was to be confiscated, every offender was to forfeit forty shillings for every pound so carried, and the vessel "with her guns, furniture, ammunition, tackle, and apparel" was to be declared forfeited.²⁴

²¹ *Ibid.*, p. 273. Pinckney's name in the official correspondence is spelled "Pinkney."

²² *Ibid.*, pp. 274-280.

²³ *Ibid.*, p. 281.

²⁴ *Ibid.*, p. 281.

On the same date, April 14, 1808, the English Parliament passed an act making valid various orders in council and treasury warrants for East India goods, Portuguese wine and other commodities, for the entrance and ware housing of various goods imported in neutral vessels, the indemnification of the interested parties, the remittance of forfeitures in certain cases and allowing the king by order in council or special license to grant permission to any vessels whatsoever to carry goods from countries excluding the British flag during hostilities and for two months after the beginning of the next meeting of Parliament.²⁵

On May 4, 1808, Canning wrote Pinckney that the king had "judged it expedient to establish the most vigorous blockade" of Copenhagen and the other ports in Zealand. He accordingly asked Pinckney to notify the American consuls and merchants then in England that all measures authorized by international law and existing treaties would be invoked to enforce the law.²⁶

Seven weeks later, June 23, 1808, Parliament passed a law authorizing the direct importation of the goods of the United States to Great Britain if brought in British vessels, American vessels, or vessels captured as lawful prizes by the United States and acquiesced to by the British courts and owned, captained and three-fourths manned by subjects of the United States. If, however, the importation of such goods from foreign countries was prohibited, they were not included under the above terms. When included, moreover, they were subject to duties and various regulations. If the goods were imported in ships other than "British built, owned, navigated, and registered," they were subject to duties paid on similar articles imported from foreign countries. On reexportation certain drawbacks were allowed.²⁷

These duties were well-nigh prohibitive even if the United States wanted to recognize her subordination to Great Britain. Thus a Baltimore paper declared that the English duty on a cargo of tobacco amounted to \$30,000, on flour, \$10,000, and

²⁵ *Ibid.*, p. 282.

²⁶ *Ibid.*, p. 282.

²⁷ *Ibid.*, pp. 283, 284.

on fish, \$5,000.²⁸ The same paper declared, a week or two later: "Between the Tribute on our exports and the duties on our imports the *city of Baltimore* with its former commerce would pay to the king of Great Britain an annual *tribute* of about Two millions and a half of dollars per annum . . ."²⁹

A New England paper declared that the duty on one thousand bales of cotton at three hundred pounds would amount to \$50,000 at nine pence a pound. At fourteen and a half cents a pound the cotton would bring \$43,700. "Thus," ran the comment, "the exporter would have to pay \$6,500 in London more than the Original Cost as a Duty for liberty to proceed to the Continent!!"³⁰

On October 14, 1808, Rear Admiral Alexander Cochrane wrote to the various officers under his command that a strict naval blockade was to be established over the leeward side of the French Caribbean islands, and directed them to stop neutral vessels sailing for such ports. If they appeared to be ignorant of the blockade, and had no enemy's property on board, they were to be notified of the blockade, warned not to enter the ports, and have a notice to that effect written on one or more of the ship's papers and then released. If, however, they had been warned, or had sailed from a clearing port after it was reasonably certain that public notification of the blockade had been made, they were to be seized and sent "into port for legal adjudication." If neutral vessels came out of these French Caribbean ports laden with colonial produce, goods, or merchandise and apparently laden after knowledge of the blockade had been received, they also were to be seized and "sent in for legal adjudication."³¹

In the next place it is, of course, necessary to note the action of the other principal belligerent, for that action too influenced the United States, though to a lesser extent than England's. From May 9, 1793 to April 17, 1808, inclusive, France issued eighteen decrees affecting the United States. Only those from 1806 will be considered here. On November

²⁸ *Baltimore Evening Post*, September 22, 1808.

²⁹ *Ibid.*, October 3, 1808.

³⁰ *Northampton Republican Spy*, November 9, 1808.

³¹ *American State Papers, Class I, Foreign Relations*, Vol. III, p. 284.

21, 1806, Napoleon issued the Berlin Decree, for which he gave the following reasons:

1. England does not observe international law.
2. She regards as enemies all individuals belonging to enemy states, and consequently makes prisoners not only of the crews of war vessels, but the crews of merchant vessels as well with their super-cargoes.
3. She applies the right of conquest to merchant vessels, products, and private property.
4. In violation of the law of nations she blockades unfortified ports and harbors.
5. She uses a "paper blockade" in many cases.
6. By this means she hopes to destroy the commerce of neutral nations and extend her own products "upon the ruin of those of the continent."
7. Anyone favoring England in this design becomes an accomplice.
8. England has profited by this plan; other nations have suffered.
9. "That it being right to oppose to an enemy the same arms she makes use of, to combat as she does, when all ideas of justice and every liberal sentiment (the result of civilization among men) are disregarded; We have resolved to enforce against England the usages which she has consecrated in her maritime code.

The present decree shall be considered as the fundamental law of the empire until England has acknowledged that the *rights of war* are the same on land as at sea; that it cannot be extended to any private property whatever, nor to persons who are not military, and until the right of blockade be restrained to fortified places, actually invested by competent forces.³²

The decree then declared:

1. The British Islands are blockaded.
2. Letters and packages addressed to England or Englishmen or in the English language shall be seized.

³² *Ibid.*, pp. 289, 290.

3. All Englishmen found in territories occupied by French armies shall be made prisoners of war.

4. All property of English subjects shall be declared lawful prize.

5. All English merchandise is lawful prize.

6. One-half of the proceeds resulting from the above confiscations shall be used to indemnify French merchants for losses suffered at the hands of English cruisers.

7. Vessels coming direct from England or English ports, or vessels there after the publication of this decree shall be denied entrance to French ports.

8. Vessels attempting to avoid the clause by making false declarations shall be seized, and, with their cargoes, confiscated as if they were English.

9. The tribunal of prizes in Italy shall be charged with the settling of controversies under the decree there; the tribunal of prizes at Paris shall be charged with the settling of all other controversies arising under the decree.

10. The minister of "Exterior Relations" shall be charged with communicating the decree "to the Kings of Spain, of Naples, of Holland, of Etruria, and to our allies, whose subjects, like ours, are the victims of the injustice and barbarism of the English maritime laws."⁸³

In reply to the English orders in council of November 11, 1807, Napoleon issued the Milan Decree, December 17, 1807. This decree, short like its predecessor and unlike many of the English orders in council in this respect and in its clarity, was issued in the name of Napoleon, Emperor of the French, King of Italy, and Protector of the Rhenish Confederation. It premised as reasons for its existence:

(1.) The orders of November 11, 1807, which made liable to search, detention, and taxation neutral ships and the ships of England's allies and friends.

(2.) The consequent denationalization of ships of all nations by England.

(3.) The danger that acceding to this demand would establish tyranny into principles and consecrate it by usage

⁸³ *Ibid.*, p. 290.

even as the English had "availed themselves of the tolerance of government to establish the infamous principle that the flag of a nation does not cover goods, and to have to their right of blockade an arbitrary extension, and which infringes on the sovereignty of every state."³⁴

The decree then declared:

1. All ships on voyages to England submitting to English search, or paying English taxes are declared to be denationalized, deprived of protection of former king, and English property.

2. All ships thus denationalized are good and lawful prize wherever they may be found.

3. The British Isles are blockaded by land and sea. All vessels sailing to or from England, her colonies, or countries occupied by English troops are to be considered lawful prize.

4. "These measures, which are resorted to only in just retaliation of the barbarous system adopted by England, which assimilates its legislation to that of Algiers, shall cease to have any effect with respect to all nations who shall have the firmness to compel the English government to respect their flag. They shall continue to be rigorously in force as long as that Government does not return to the principle of the law of nations, which regulates the relations of civilized States in a state of war. The provisions of the present decree shall be abrogated and null, in fact, as soon as the English abide again by the principles of the law of nations which are also the principles of justice and of honor."³⁵

The only authentic information of the Bayonne Decree of April 17, 1808, to reach the Department of State was contained in a letter of General Armstrong, our minister to France, dated April 23, 1808, and sent to the Secretary of State. The direction to the French custom house officials was "to seize all American vessels now in the ports of France, or which may come into them hereafter." The explanation given to Armstrong was: "No vessel of the United States can now navigate the seas without infracting a law of the

³⁴ *Ibid.*, p. 290.

³⁵ *Ibid.*, pp. 290, 291.

said States, and thus furnishing a presumption that they do so on British account, or in British connexion.'³⁶

Under these conflicting orders and decrees, hundreds of American vessels and millions of dollars worth of American property were confiscated. England and her allies virtually said: "If you don't do as we say, we will take your property." Napoleon and his allies said: "If you do as England says, we will take your property." It was, apparently, a question of the frying pan or the fire. According to a news item of June 8, 1808, Great Britain had carried into English ports sixty-seven vessels valued at eight million dollars since November 11, 1807.³⁷

A report prepared by James Monroe, Secretary of State, and transmitted to the House of Representatives, July 6 1812, by President Madison, declared that England captured 528 vessels prior to the orders in council of November 11, 1807, and 389 subsequently thereto, or a total of 917. France captured 206 vessels prior to the Berlin and Milan decrees, 307 vessels during the existence of those decrees, to August 5, 1810, and forty-five after their revocation, or a total of 558.³⁸ Though England had control of the sea, it will be seen that the French were not absolutely powerless. Many of the captures made by the French, however, were of American vessels in French ports.

³⁶ *Ibid.*, p. 291.

³⁷ *National Intelligencer*, June 8, 1808.

³⁸ *American State Papers, Class I, Foreign Relations*, Vol. III, pp. 583-585.

CHAPTER III

THE EMBARGO IN LEGISLATION, DEBATE, AND DIPLOMACY

No self-respecting nation could tamely submit to restrictions imposed upon it by foreign powers. This was especially difficult for the United States in the case of England, after the *Leopard-Chesapeake* outrage. On June 22, 1807, the *Leopard*, a fifty-gun vessel, stopped the *Chesapeake* off the Virginia coast just outside of the three mile limit, and demanded the surrender of seamen who were said to be deserters from British naval service. When the demand was refused, the English vessel opened fire. The *Chesapeake* was unprepared for action. Many guns were dismounted and the deck was littered with stores. After twenty-one men had been wounded or killed, one gun was discharged by a coal brought from the galley fire. The flag was then hauled down. The British carried off four men said to be deserters. Since the captain of the *Leopard* refused to accept the surrender of the *Chesapeake*, the American vessel returned to her anchorage. The public anger was furious. Barrels of water intended for British war vessels were smashed, indignation resolutions poured in, and many people clamored for war. Jefferson, however, contented himself for the time being with a proclamation ordering the ports of the United States closed to British war vessels and with negotiations which proved unsatisfactory.¹

The merchants, most immediately involved in the depredations on our trade, were inclined to favor a circumspect course. Many of them, then as now, worshipped the dollar. Losses came to them, of course, but because of the dangers of the voyage, prices were high; hence the successful traders made exorbitant profits. Nevertheless, the sentiment of the country veered steadily towards obtaining and maintaining

¹ Channing, E., *History of the United States*, Vol. IV, pp. 370-372.

for the United States a position of respect at home and abroad. The question was: "How can a nation unprepared for war force two mighty foes, locked in a life and death struggle, to repeal their obnoxious orders and decrees?" Among the expedients considered for the protection of our commerce were:

1. Use of ships of war;
2. Arming of merchant vessels;
3. An offensive and defensive war;
4. A general suspension of foreign commerce; and
5. An embargo of vessels, sailors, and merchandise.²

Jefferson, pacific by nature and fearful of the cost of war, favored the last named measure. He was not alone in this opinion, for all his cabinet sided in with him. Albert Gallatin, the Secretary of the Treasury, however, was apparently not so enthusiastic as his chief might wish, for on December 18, 1807, he wrote to Jefferson as follows:

... I also think that an embargo for a limited time will at this moment be preferable in itself, and less objectionable in Congress. In every point of view, privations, sufferings, revenue, effect on the enemy, politics at home, etc., I prefer war to a permanent embargo. Governmental prohibitions do always more mischief than had been calculated; and it is not without much hesitation that a statesman should hazard to regulate the concerns of individuals as if he could do it better than themselves.³

On the same day that Gallatin's letter was written, the president sent the following communication to the Senate and the House of Representatives:

The communications now made, showing the great and increasing dangers with which our vessels, our seamen, and merchandise are threatened on the high seas and elsewhere from the belligerent powers of Europe, and it being of the greatest importance to keep in safety these essential resources, I deem it my duty to recommend the subject to the consideration of Congress, who will doubtless perceive all the advantages which may be expected from an inhibition of the departure of our vessels from the ports of the United States.

Their wisdom will also see the necessity of making every preparation for whatever events may grow out of the present crisis.⁴

² *Annals of Congress*, Vol. 17, p. 366.

³ Adams, Henry, *Life of Albert Gallatin*, pp. 366, 367.

⁴ Richardson, J. D., *A Compilation of the Messages and Papers of the Presidents, 1789-1797*, Vol. I, p. 433.

This message was accompanied by documents from France and England showing the necessity of affording protection to our commerce.⁵ The communication was read the same day in the Senate and referred to a committee which reported a bill almost immediately. The Senate passed the measure by a vote of 22 to 6 and sent it to the House within five hours after the first reading. In the Senate, it is true, some members had urged delay, but others had rejoiced over the sign of vigor on the part of the president and had appealed for instant decision. Among these was John Quincy Adams, who had declared: "The President has recommended the measure on his high responsibility. I would not consider, I would not deliberate; I would act!"⁶ In the meantime, the House also acted. When the communication from the president arrived, John Randolph took the lead, and moved that an embargo be laid immediately. When the Senate bill came, it was substituted for the Randolph resolution. On the next day the "erstwhile leader of the Republicans" opposed the embargo by insisting that it was truckling to French orders. The Federalists seized upon these charges, but in spite of divided councils caused by Randolph's defection, the embargo was passed December 21, 1807, by a vote of 82 to 44.⁷ In all probability, Jefferson never scored a higher triumph throughout the whole of his political career. Henry Adams has well written:

On his mere recommendation, without warning, discussion, or publicity, and in silence as to his true reasons and motives, he succeeded in fixing upon the country, beyond recall, the experiment of peaceable coercion. His triumph was almost a marvel; but no one could fail to see its risks. A free people required to know in advance the motives which actuated government, and the intended consequences of important laws. Large masses of intelligent men were slow to forgive what they might call deception. If Jefferson's permanent embargo should fail to

⁵ *American State Papers, Series I, Foreign Relations*, Vol. III, pp. 25, 26. Jefferson's annual message of October 27, 1807, had previously pointed out the dangers to American commerce, especially from the English orders. He had, with some exaggeration, declared: "Under this new law of the ocean our trade on the Mediterranean has been swept away by seizures and condemnations, and that in other seas is threatened with the same fate." (Richardson, J. D., *op. cit.*, p. 427.)

⁶ Quoted from J. Q. Adams, *Diary*, Vol. I, p. 491, in Channing, E., *The Jeffersonian System*, p. 212. See also *Annals of Congress*, Vol. 17, p. 51.

⁷ Channing, E., *Jeffersonian System*, pp. 212, 213.

coerce Europe, what would the people of America think of the process by which it had been fastened upon them? What would be said and believed of the President who had challenged so vast a responsibility?⁸

The act which Jefferson approved December 22, 1807, prohibited the sailing of all ships and vessels subject to the jurisdiction of the United States, if destined to some foreign port or place. No vessel, unless licensed under the immediate direction of the president, was to be given a clearance. The chief executive was to give the proper instructions to the revenue and naval authorities. The act specifically declared that no provision of the law was to be so construed as to detain any foreign vessel in ballast, or loaded "with goods, wares, and merchandise" when notified. Coastwise trade was permitted when the master, owner, consignee, or factor of the vessel gave bond, with at least one surety, to double the value of the vessel and cargo that the goods would be relanded in a port of the United States, "dangers of the sea excepted." The collector of the district from which the vessel sailed was later on to send the bond, with a certificate from the collector where the goods had been relanded, to the Secretary of the Treasury. Armed vessels with public commissions from foreign nations were declared exempt from the embargo.⁹

Enemies of Jefferson have never ceased to condemn his haste and motives in forcing the passage of the embargo act. William Sullivan declared:

The Berlin decree, then more than a year old; the inquiry of Mr. Armstrong, and the answer to it; and the *proclamation* of the British government, (cut from a newspaper) recalling the British seamen, and prohibiting them from serving foreign princes, and states, dated October 16, 1807, were all the documents sent to Congress, proposing an *unlimited* embargo. These showed the great and unceasing dangers with which our vessels, *our* seamen, and merchandise were threatened on the high seas, and elsewhere by the belligerent powers of Europe.¹⁰

In the same letter Sullivan added: "No one who calmly considers this transaction can doubt, that it was conceived and executed for the purpose, and only purpose of enforcing,

⁸ Adams, Henry, *History of the United States*, Vol. IV, pp. 176, 177.

⁹ *Annals of Congress*, Vol. 18, pp. 2814, 2815.

¹⁰ *Familiar Letters on Public Characters and Events*, (October 15, 1833), p. 259.

so far as this country could be useful to that end, the continental system of Napoleon."¹¹ On October 25, 1833 he wrote: "He [Jefferson] was willing to impose an annual loss of *fifty millions* on his own countrymen, and enforce his system of restriction at the point of the bayonet, to aid Napoleon in humbling England."¹²

Jefferson's real motive in recommending the embargo may never be known. A friendly view will, of course, note the expected advantages of the measure. Thus we read:

An embargo will not be without advantages separate from the immediate purpose it is to answer. It forces frugality in the use of things depending on habit alone for the gratification they yield. It fosters applications of labor which contributes to our internal sufficiency for our wants. It will extend those household manufactures, which are particularly adapted to the present stage of our society. And it favors the introduction of particular branches of others, highly important in their nature, which will proceed of themselves when once put into motion, and moreover by attracting from abroad hands suitable for the service, will take the fewer from the cultivation of our soil.¹³

Two months later the same paper advanced eight reasons for the passage of the embargo, in substance as follows:

1. No commerce could be carried on with safety prior to the embargo.
2. We had serious disputes with England which might lead to war.
3. The embargo would bring the British to terms.
4. It would tend to preserve peace.
5. It would prevent the importation of many millions of undesirable foreign goods.
6. It would injure enemies more effectively than war.
7. It would encourage domestic manufactures.
8. It would discourage "extravagance and expense in foreign gewgaws."¹⁴

Later on, when the effects of the embargo became apparent, the same paper quoted the *Washington Monitor* with approval on the cost of embargo as compared with war. Thus we read:

¹¹ *Ibid.*, p. 260.

¹² *Ibid.*, p. 268.

¹³ *Northampton Republican Spy*, January 13, 1808.

¹⁴ *Ibid.*, March 9, 1808.

THE EMBARGO

Will produce temporary inconvenience; the loss of a few thousand dollars; and give a little more idle time to the citizens, who do not choose to turn their attention to internal improvements. It will not starve anybody. On the contrary, the staple necessities of life will be cheaper.

A WAR

Will produce the loss of millions of dollars, burning and sacking of towns and cities, rape, theft, murders, streams of blood, weeping widows, helpless orphans, the beggary of thousands, the ruin of agriculture, and an extensive depravation of morals.

Citizens of the United States! Which do you choose?¹⁵

Southern administration newspapers accepted the same view. In the fall a Virginia paper declared that the embargo was simply a choice of evils—war, submission, or embargo—and that the government had chosen the least damaging.¹⁶

An editorial early in December admitted that the embargo was a great evil to the commercial and agricultural interests, but contended, that no lesser evil could be adopted in its place. The embargo, moreover, prevented war, the article insisted.¹⁷

Anti-administration newspapers claimed that Jefferson laid the embargo because of French influence. In a Hartford paper early in January, 1808, we read:

What is this Embargo laid on for? is in every body's mouth. As it is the policy of our present rulers to let the people grope in the dark, we can only conjecture. From the variety of considerations, we feel persuaded that our excellent friend Bonaparte has intimated, to our government, his intention to take measures, as it respects our commerce, which our administration *ought* to resent and which the people *would* resent, if they knew them; there is then but one way to manage us—that is—restrain *commerce*, and then the intentions of Bonaparte cannot be brought into operation, and may be kept a secret from the American publick. The long and short of it is this—rather than resist any overbearing and insulting measure of France, we are to be ruined, by commercial restriction.¹⁸

The charge of French influence was continually made. A few typical instances occurring from August to September will be cited. Thus a *North American* charge that both Jefferson

¹⁵ *Ibid.*, July 20, 1808.

¹⁶ *Richmond Enquirer*, September 16, 1808.

¹⁷ *Ibid.*, December 2, 1808.

¹⁸ *Connecticut Courant*, January 6, 1808.

and Madison were naturalized French citizens was widely circulated.¹⁹ Madison was charged with declaring: "*France wants money and we must give it.*" Jefferson is said in an irritated manner to have expressed the idea that the United States would fight England. His visitor, a merchant, asked how we could reach the English when we had no ships and they would not come here. He replied: "*France has ships and we have men.*"²⁰

Under the form of question and answer the Brattleborough Reporter asked: "Why is the *Embargo* like good strong coffee?" It replied: "Because Bonaparte is remarkably fond of it." Again: "Why is the *Embargo* like French influence in our cabinet?" "Because unless speedily removed," was the answer, "it will be the ruin of America."²¹

A paper of the same date charged Jefferson and Madison with violating the first article of the ninth section of the Constitution by accepting secretly "the *title* of member of Bonaparte's Legion of Honour."²² A little later the same paper charged Jefferson with laying the embargo at Napoleon's express order.²³

In connection with this charge of French influence we have numerous statements to the effect that the embargo was violated by French vessels with the consent of the administration. One article read:

Notwithstanding the *Embargo Laws*, (to which it seems Mr. Jefferson and his friends pay no regard) French vessels are continually carrying off supplies to Guadaloupe, etc. The French brig *La Pars* has just sailed from Philadelphia; among the articles she took by Jefferson's orders, were five tons cordage, 150 bbls. flour, 100 do. salt provisions, six pipes wine, a number pipes brandy, and many articles which the people must not know of, because *they* are not allowed such privileges.²⁴

The president and Congress were continually charged with hostility to trade. "*Perish Commerce* is the motto of the ma-

¹⁹ *National Intelligencer*, August 24, 1808.

²⁰ *United States Gazette*, August 31, 1808.

²¹ *Massachusetts Spy or Worcester Gazette*, September 21, 1808.

²² *United States Gazette*, September 21, 1808.

²³ *Ibid.*, October 8, 1808.

²⁴ *Massachusetts Spy or Worcester Gazette*, August 24, 1808. See also the *National Intelligencer*, July 1, 1808 and the *New York Herald*, December 31, 1808.

jority of Congress," declared a leading Massachusetts paper.²⁵ A prominent individual in discussing the embargo evils with a member of Congress declared that it had already reduced thousands of seamen to beggary and that many thousands had already gone out of the country into British employ. The answer, declared to be representative of Southern opinion, was: "As to their beggary it is their own fault; there is land enough; let them take to the spade. As to their going out of the country, I am d - - - d glad of it. And I hope they will never come back to it again. If we had no seamen, we should have no commerce—and if we had no commerce, we should not be getting into eternal quarrels with foreign nations!!"²⁶

Jefferson has often been accused, as these citations indicate, of aiming at the destruction of commerce and there is ground for this in his writings.²⁷ Again, he liked to experiment on a large scale and, perhaps, as some people stated, wanted to try out a pet theory. The charitable view, however, is that he sincerely attempted to preserve the peace and protect American shipping, seamen, and products from foreign depredations.

On December 23, 1807, Madison, Secretary of State, wrote to Pinckney, concerning the embargo:

But it may be proper to authorize you to assure the British Government, as has been just expressed to the minister here, that the act is a measure of precaution only, called for by the occasion; that it is to be considered as neither hostile in its character, nor as justifying, or inviting, or leading to hostility with any nation whatever, and particularly as opposing no obstacle whatever to amicable negotiations and satisfactory adjustments with Great Britain, on the subjects of difference between the two countries.²⁸

The embargo made necessary several supplemental acts. One of these was approved by the president, January 8, 1808. There were seven sections to this act, whereas there had only been two in the original act. It was provided that, during the continuance of the embargo, "no vessel licensed for the

²⁵ *Boston Repository*, March 22, 1808.

²⁶ *Boston Repository*, April 1, 1808.

²⁷ *Writings*, Vol. III, p. 269; Vol. IX, p. 245.

²⁸ *American State Papers, Class I, Foreign Relations*, Vol. III, p. 206.

coasting trade" should be allowed a clearance unless the owner, consignee, agent or factor, *with the master*, gave bond, with at least one surety to the United States, to an amount double the worth of ship and cargo, that the vessel would not go to a foreign place, but would reland the cargo in some port of the United States. Owners of licensed fishing vessels and those bound on whaling voyages, according to the second section, if they had on board no other cargo than sea stores, salt, and the ordinary fishing tackle, had to give a general bond to four times the value of vessel and cargo, that they would not, while the embargo was in operation, go to any foreign port, but would return to the United States with their fishing fare. If the vessels were uniformly employed in places within the jurisdiction of the United States, a bond equal to three hundred dollars for each ton of the vessel so engaged was sufficient, provided the vessel was not employed in foreign trade during the time specified in the bond.

Vessels leaving during the continuance of the embargo without clearance or permit or contrary to the provisions of the embargo acts and proceeding to foreign ports and there engaging in trade were to be forfeited together with their cargoes. If, however, they were not seized, the owners, agents, freighters or factors of the vessels, should, for each offense, be fined a sum equal to double the value of ship and cargo, and should thereafter be deprived of credit for duties on their imports into the United States. The commanders of such vessels, with all other persons knowingly concerned in such prohibited foreign voyages were to be fined a sum ranging from one thousand to twenty thousand dollars for each offense, whether or not the vessels were seized and condemned. Moreover, the oath of any commander so offending was thereafter declared inadmissible before any United States customs collector. The exception made in the former act in favor of foreign ships and vessels was dealt with. It declared that such exception should apply only to public armed vessels possessed of public commissions from foreign nations. Privateers, vessels with letters of marque, and other private armed vessels were consequently ruled out; they, however, were allowed to

depart subject to the same regulations as prevailed for other private foreign ships and vessels.

The next section declared that if any foreign vessel during the continuance of the embargo took on board specie or products "other than the provisions and sea stores necessary for the voyage," the vessel together with all its cargo should be entirely forfeited, and could be seized and condemned in any competent United States court. Every person interested in the violation could be fined "a sum not exceeding twenty thousand dollars, nor less than one thousand dollars, for every such offense." The last section provided that the time during which the embargo was in force should not be counted "as making part of the term of twelve calendar months during which goods, wares, or merchandise, imported into the United States, must be re-exported in order to be entitled to a drawback of the duties paid on the importation thereof."²⁹

When Jefferson recommended the embargo act, he had not yet received official news of the British orders in council of November 11, 1807. British papers received, it is true, had hinted at far-reaching orders, but there is little definite proof that these influenced him. Apparently they had as little effect in the Congressional debates. On February 4, 1808, however, Jefferson sent the orders to Congress with the following brief message:

*British
papers
had
little
effect*

Having received an official communication of certain orders of the British Government against the maritime rights of neutrals, bearing date the 11th of November, 1807, I transmit them to Congress as a further proof of the increasing dangers to our navigation and commerce which led to the provident measure of the act of the present session laying an embargo on our own vessels.³⁰

The embargo act and the first supplementary act failed to stop all commerce. The embargo act itself did not touch the trade with Canada and Florida. The first supplemental act applied merely to fishing and coasting vessels. The government now determined by a second supplemental act to stop all land and sea commerce with foreign powers. Accordingly, on February 11, 1808, the committee on commerce and manu-

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²⁹ *Annals of Congress*, Vol. 18, pp. 2815-2818.

³⁰ *American State Papers, Class I, Foreign Relations*, Vol. III, p. 29.

factures was instructed to determine what further restrictions were necessary to prevent exportations to foreign countries, with the option of reporting by bill or otherwise.³¹ On February 19, 1808, various supplementary acts to the embargo were brought up. These created hot words, particularly the fourth, which forbade the "exportation in any manner whatever of goods the exportation of which by sea is prohibited by the embargo laws."³² In spite of heated discussions, however, Jefferson's control seemed well-nigh absolute. On February 29, 1808, the second supplemental bill passed the House by a vote of 97 to 22.³³ In the Senate, little opposition, apparently, was recorded.³⁴ On March 12, the president signed the measure and it became law.³⁵

This act declared that "no ship, vessel, or boat of any description whatever, owned by citizens of the United States, and which is neither registered, licensed, nor possessed of a sea letter, shall be allowed to depart from any port of the United States, or shall receive a clearance."³⁶ If the vessels desired to engage in the coastwise trade, the owners, factors or consignees, if the vessels were American owned, had, with the usual surety, to give a bond double the value of vessel and cargo that the goods would be landed in some port of the United States. If the vessels were foreign owned, the bond amounted to four times the value of the vessel and cargo. If, however, the American vessels had been uniformly employed in waters under the jurisdiction of the United States, a bond equal to two hundred dollars for each ton of the vessel was sufficient, provided the vessel was not employed in any foreign trade during the time specified in the bond.

A bond was not "required of boats not masted, or, if masted, not being decked" if their employment had been and continued to be "confined to rivers, bays, and sounds, within the jurisdiction of the United States, and lying within districts

³¹ *Annals of Congress*, Vol. 18, p. 1599.

³² *Ibid.*, Vol. 18, p. 1650.

³³ *Ibid.*, Vol. 18, p. 1712.

³⁴ *Ibid.*, Vol. 17, p. 158.

³⁵ *Ibid.*, Vol. 18, p. 2842.

³⁶ *Ibid.*, Vol. 18, pp. 2839, 2840.

which are not adjacent to the territories, colonies, or provinces of a foreign nation." The Secretary of the Treasury, nevertheless, if he saw fit, might ask a bond "equal to thirty dollars for each ton of said boat, with condition that such boat shall not be employed in any foreign trade during the continuance of the embargo."

In every case where a bond had been required, the parties to the bond, should, within four months after the bond had been given, show to the collector of the port from which the vessel had sailed a certificate of relanding from the collector of the port specified in the clearance papers. On failure to comply with this provision, suit was to be instituted and judgment given against the defendant or defendants unless they could produce proof of relanding, loss by sea, or some unavoidable accident.

Another section struck hard at the trade with Canada and Florida even though it had been carried on by land. It was declared unlawful to export "in any manner whatever" any goods whose exportation was prohibited by the earlier embargo acts. In case any goods were so exported, "either by land or water, the vessel, boat, raft, cart, wagon, sleigh, or other carriage" in which they were exported "together with the tackle, apparel, horses, mules, and oxen" were declared forfeited. Moreover, the owners and all persons concerned in such unlawful exportation were subject to a fine not exceeding ten thousand dollars for each offense. The careful effort to avoid unnecessary offense to foreign powers is apparent in the exceptions stated in the section. In the first place, foreign vessels were allowed to sail with the cargoes they had on board when notified of the act. In the second place, they could furnish themselves with the needed "provisions and sea stores for the voyage." Fishing vessels might do likewise, and take "their usual fishing tackle and apparel." It was specifically stated also that nothing in this act was to be so construed as to deprive the president of power given under the former act.

One provision of the law was intended to prohibit under penalty the sale of fish to any passing vessel. An exception might be made, however, in the case of small vessels engaged in fishing on our own coasts.

The last section authorized the president to allow owners who held property acquired in ports outside the jurisdiction of the United States prior to December 22, 1807, to send a vessel in ballast for that property and bring it back into the United States. In such cases the Secretary of the Treasury was empowered to require, with "sufficient security," a bond of any sum which he deemed necessary.³⁷

Before Congress adjourned in the late spring a law was passed relating to the suspension of the embargo and approved April 22, 1808. This act provided that in case of peace in Europe or the revocation of the offending orders or decrees, in a way which he considered safe for American commerce, the president might suspend in whole or in part the operation of the embargo laws, under "such exceptions and restrictions, and on such bond and security being given as the public interest and circumstances" of the case might require. Such suspension, however, was not to extend more than twenty days after the next meeting of Congress.³⁸ Jefferson did not seek this power; in fact he was reported unwilling to assume it.³⁹ He probably feared the inconveniences which are indicated in a later chapter. In spite of his reputed dislike of the bill, however, he signed it.

On April 25, 1808, the most stringent and longest embargo act yet passed was approved by the president. The act consisted of fifteen sections. The first section declared that no vessel of any kind employed in waters within the jurisdiction of the United States, save only "packets, ferry-boats, and vessels exempted from the obligation of giving any bond whatever," could depart from any point in the United States without a clearance and a manifest of the entire cargo on board delivered by the master or commander to the collector or surveyor of the port from which the ship sailed. Two months later, the owners, agents or masters had to return to the collector of the port from which the vessel had sailed a certificate signed by the collector of the United States port in which the goods had been landed.

³⁷ *Ibid.*, pp. 2839-2842.

³⁸ *Ibid.*, pp. 2859-2860.

³⁹ *Reifs Philadelphia Gazette, and Daily Advertiser*, April 11, 1808.

The next section declared that no ships other than those described in the preceding section should receive a clearing unless the lading was made thereafter under the surveillance of the duly empowered revenue officers and subject to all the restrictions, regulations, penalties, and forfeitures provided upon dutied imports into the United States. This provision, however, did not apply to vessels loaded or partially loaded prior to the receipt of the act by the various collectors. The third section declared that violations of the law described in the first section would cause the forfeiture of vessel and cargo, and subject the "owner or owners, consignee, agent, factors, freighters, master or skipper of such vessel," each to a fine ranging from one thousand to five thousand dollars. This section closed: "Provided always, that nothing herein contained shall be construed to bar or prevent the recovery of the penalty on the bond given for such vessel."

The next two sections for the first time in the embargo laws specifically referred to the Mississippi River trade. They provided that during the continuance of the embargo laws, every master or person in charge of "any vessel, flat, or boat, intended to enter that part of the Mississippi" between the southern boundary of the Mississippi Territory and the river Iberville," should, if going down stream, stop at Fort Adams, and, if going upstream, stop at Iberville and turn over to the revenue officer there stationed a manifest of the entire cargo. To the same officer, two months later, if going down stream and by six months later if going up stream, a certificate that the cargo had been landed "in some part of the district of Mississippi, and within the jurisdiction of the United States," had to be returned. This certificate was to be signed by the collector or one of the surveyors of the district, or if the cargo was landed over thirty miles from the home of one of these officers, by the state or territorial judge who had jurisdiction at the place where the goods were landed. Penalties for violation of these conditions were fixed at one thousand to five thousand dollars fine on each owner, consignee, agent, factor, freighter, master, or skipper, and the forfeiture of vessel and cargo.

The sixth section tried to stop trade with foreign powers

whose territory bordered on our own by forbidding any vessel to sail for any district or port adjoining territories belonging to foreign nations. No clearance could be issued unless special permission had been obtained from the president of the United States. Violations were punished by the forfeiture of vessel and cargo. If the vessel and cargo were not seized, the owners, agents, factors, and freighters of the vessel had to pay double the worth of ship and cargo. The master and commander, together with all other persons knowingly concerned, were each subject to a fine of not less than five hundred or more than three thousand dollars whether or not the vessel was seized.

Suspicion, according to the act, justified interference. By this law all commanders of the public armed vessels, including gun boats, revenue cutters, and revenue boats, were authorized to stop and examine any boat, flat, or vessel, whether American or foreign and whether on the high seas or within the jurisdiction of the United States, if there was "reason to suspect" it to be engaged in business prohibited by the embargo laws. If the suspicion proved to be justified, the commander making the examination was instructed to send the boat to the closest United States port for trial.

The eighth section authorized the Comptroller of the Treasury to remit "duties accruing on the importation of goods of domestic produce, or which, being of foreign produce, had been exported without receiving a drawback, which may have been, or may be re-imported in vessels owned by citizens of the United States, and which having sailed subsequent to the first day of October last, and prior to the twenty-second day of December last, may be or have been stopped on the high seas by foreign armed vessels, and by reason thereof have returned, or may hereafter return into the United States." The Comptroller was likewise authorized to direct bonds given for foreign merchandise, exported with the right of drawback and reimported in the same vessel, to be cancelled, provided the duties on reimportation had been previously paid and other necessary conditions and restrictions were complied with. The next article provided that during the continuance of the embargo no foreign ships or vessels should go from one

port of the United States to another. If this provision was violated, the vessel and cargo were to be forfeited and the owner or owners, agent, factors, freighters, and master were to be fined a sum of not more than three thousand or less than one thousand dollars.

The next three articles dealt with clearance and the powers of collectors. The tenth limited the amount of clearance charges for each vessel, flat, and boat to a maximum of twenty cents for each clearance. The next section allowed customs collectors to detain vessels apparently bound for some other port of the United States, if in their opinion, the intention was to violate or evade the embargo laws. The twelfth section conferred other extraordinary powers on collectors.

The next section related to vessels owned by citizens of the United States and loaded wholly or in part with our products prior to the passage of the embargo. Such vessels, if detained in any port of the United States, might be allowed to go to any of our other ports and remain there with cargo on board subject to the restrictions and bonds prescribed in the embargo acts. The last section expressly declared that no provision of the embargo acts should be construed in such a way as to prevent the exportation by land or inland navigation of furs and peltries owned by British citizens who bought them of the Indians from the territories of the United States to those of Great Britain. Likewise, no provision was to be so interpreted as to prevent the importation to United States territory by land or inland navigation from British territory of merchandise owned by British subjects and designed entirely for Indian use.⁴⁰

When Congress assembled for its second session on November 7, 1808, further efforts were made to strengthen the embargo. Gallatin was appealed to for advice on the embargo and its enforcement. He replied, November 24, that in order to prevent more effectually coasting vessels regularly cleared, from violating the embargo, two measures appeared necessary:

- (1) Increase in the amount of bond; and

⁴⁰ *Annals of Congress*, Vol. 18, pp. 2870-2874.

(2) Refusal to allow capture, distress, or any other accident to be admitted as a plea or given in evidence on trial.

To prevent vessels from departing without clearances in open defiance of the law, he recommended that:

(1) The permission of collector be required before any vessel was bonded;

(2) The owner be considered as the man whose name appeared on the register or license;

(3) The collector be given power to seize unusual deposits;

(4) The use of gun boats, war vessels, and the building of ten or twelve additional cutters to enforce the embargo; and

(5) Use of militia on application of collectors to enforce embargo.

Other suggestions made by the Secretary of the Treasury were:

(1) Prohibition of exportation of specie;

(2) Detention of "wagons and other carriages laden and actually on their way to a foreign territory";

(3) Making the preparation of goods for exportation punishable;

(4) Trial of suits against collectors in the United States courts;

(5) "Making it a penal offense to take property which by virtue of any law of the United States is in the collector's possession";

(6) Allowing "the district judges to set aside, on motion of the district attorney," low valuations of property seized by United States officers vested with discharging the embargo laws, when by that low valuation the property reverted to the original owner; and

(7) Defining precisely by law the question of jurisdiction on the subject of mandamus.⁴¹

In accordance, for the most part, with Gallatin's advice, the last, longest, and most fiercely debated of the embargo acts was approved January 9, 1809. The first section declared that it was a violation of the law to "put, place, or load, on board any ship, vessel, boat, or water craft or into any cart, wagon,

⁴¹ *The American Register*, Vol. IV, pp. 263-267.

sled, or other carriage or vehicle, with or without wheels, any specie, goods, wares, or merchandise, with intent to export, transport, or convey the same without the United States or the territories thereof, to any foreign place, kingdom, or country or with intent to convey the same on board any foreign ship or vessel within or without the limits of the United States or with the intent in any other manner to evade the acts to which this act is a supplement." Violation incurred the forfeiture of the produce and all conveyances used in its removal, and subjected all parties concerned to the crime of "high misdemeanors" and a fine, on conviction, "equal to four times the value of such specie, goods, wares, and merchandise." This section, however, was not to be so construed as to extend to persons other than the owners who first informed the collector of the district about the violation and made complaint. In order to encourage the giving of information half the fine was to be turned over to such persons.

The second section stated in detail the conditions under which ships might be loaded:

(1) A permit naming the articles to be loaded had to be previously obtained from the collector of the district concerned, or from a revenue officer specifically authorized by him.

(2) Lading must be under the inspection of the lawful revenue officers.

(3) Bond must be given by the owner, consignee or factor, and master to six times the worth of vessel and cargo that the vessel would not leave without a clearance, nor leaving, proceed to a foreign port, or place on board any article from another vessel.

(4) Entire cargo must be landed in a port of the United States designated in the clearance paper or relanded in the port from which the vessel sailed.

The customs collectors were authorized to refuse permission to load any vessel when they believed there existed an intention to violate the embargo, or when they were so directed by the president. This section, however, did not apply to ships, vessels, and boats uniformly employed within waters subject to the jurisdiction of the United States. They came under the provisions of the fourth section.

The third section declared that the owners and consignees or factors of boats described above should, if the boats were laden in whole or in part, discharge their cargo or give bond. If the cargo was not discharged within ten days or the bond given within three days after the notice had been given, vessel and cargo were to be entirely forfeited. The collectors, however, were authorized to order cargoes discharged for the same reason as they might give for refusing to allow the further loading of vessels. They were likewise authorized to take possession of such vessels until the cargoes were discharged or bonds given.

The next three sections related to the granting of a general permission to vessels uniformly employed in waters within the jurisdiction of the United States if there was no danger of the embargo being violated and if bond had been given in due form. If the general permission and general bond were not first obtained and merchandise was taken on board contrary to law, the vessel together with the cargo was to be entirely forfeited. Moreover, the owner, agent, freighter, or factors, master or commander would "severally forfeit and pay a sum equal to the value of the ship, vessel, or boat, and of the cargo put on board the same."

If a new register or license was granted during the continuance of the embargo acts or if a ship neither registered nor licensed was sold, a bond to the United States with at least one surety to the amount of three hundred dollars for each ton of the vessel had to be required by the collector. These terms, however, did not apply to *bona fide* sales made before the act was passed either in the waters of the United States or in foreign waters.

The seventh section was particularly stringent. Vessels sailing from one United States port to another under the proper bonds were compelled, within two months after date of sailing, to bring to the port of clearing a certificate from the collector of the port designated declaring that the goods had been landed there. If the voyage was from New Orleans to an Atlantic port or vice versa, four months were allowed for producing the certificate. If the bond was not produced by the specified time, suit was to be instituted and judgment given

against the defendant unless proof could be given of the re-landing, "or of loss of the vessel at sea." Capture, distress, and other accidents were not allowed to be advanced unless they occurred under conditions carefully set forth. "

The next section provided that a registered or sea-letter vessel could not, even though in ballast, receive a clearance or depart if the bond required for coasting trade had not been previously given.

The ninth section gave well-nigh absolute powers to customs collectors. They were instructed to seize specie or goods found on board any water craft when there was reason to believe such articles were intended for exportation. Likewise, if specie or goods were in vessels, carts, wagons, sleighs or any other carriage, or in any way presumably on the road to territories of foreign powers, or the vicinities thereof, or a place from which they were to be exported, they were to be seized. Permission for removal was not to be granted "until bond with sufficient sureties" had been granted to insure the landing of the articles in some part of the United States, where, in the opinion of the collector, there was no danger of the articles being exported.

The next section was designed to protect the collectors in the proper discharge of their duties. If suit was brought against any collector or his agent acting under the present embargo act, he could "plead the general issue, and give this act and the instructions and regulations of the President in evidence for his justification and defence." Any individual hurt by the collector's acts could file his petition before the district court having jurisdiction over the collector, state the facts, and after notice had been given to the collector and district attorney, have the court hear and judge "as law and justice may require." The judgment, reasons, and facts in the case were to be filed in the court records. If the case went against the collector, the party was required to give the usual bond or bonds. If, however, the court judged against the petitioner and in favor of the collector, the latter was entitled to treble costs "which shall be taxed for him, and execution awarded accordingly by the court."

In order to prevent armed resistance to the embargo laws

the president was empowered to use any part of the land forces, naval forces, or militia of the United States or its territories judged necessary to prevent the unlawful departure of vessels, provide for the detention and custody of ships, specie, or goods, and provide for the prevention and suspension of armed and riotous assemblages which resisted the custom house officers while exercising their duties, or in any way opposed carrying into effect the laws laying an embargo, or in any other way violated or assisted and abetted violations of the embargo laws.

The twelfth section dealt in detail with the question of penalties. The next section authorized the president to hire and arm thirty vessels, not exceeding one hundred and thirty tons each, for immediate service in enforcing the laws of the United States on the sea coast. This power, however, was limited to one year, and all ships were to be employed "under the direction of the Secretary of the Treasury."

The last two sections declared, in the first place, that the seventh section of the act of March 12, 1808, which allowed the president "to grant permission to citizens having property of value in places without the jurisdiction of the United States, to dispatch vessels for the same" should cease; and in the second place, that the act should be in force only so long as the original embargo act was enforced.⁴²

The embargo regulations increased in severity as the above summaries show. The first act, brief and hurried, aimed only at the stopping of exports at sea. The act of January 8, 1808, was a longer act and prescribed minutely penalties of increasing severity for law violations. It included in its application coasting and fishing vessels. The act of March 12 attempted to stop all commerce with the world, whether by land or water. The act of April 25 was longer than any of its predecessors; it took up in detail the question of penalties which were increased in severity as the law increased in stringency, gave the collectors increased power, minutely regulated the Mississippi River trade, and, in short, attempted to stop absolutely all trade even with foreign nations whose territory bordered

⁴² *Annals of Congress*, Vol. 19, pp. 1795-1804.

on ours. The last act, that of January 9, 1809, was one of the most drastic ever passed by any Congress. Coasting vessels were required to give impossible bonds—six times the value of vessel and cargo, collectors were given despotic powers, and the right to plead capture, distress, or accident was well-nigh prohibited. It proved to be the death blow to the embargo system.

During the year 1808 the votes on the embargo varied little, but an analysis of two votes will be made in order to show the location of the opposition. The House, April 19, passed an embargo law by a vote of 60 to 38. Seven of the negative votes came from Connecticut, six from Virginia, four each from Pennsylvania, Maryland, and North Carolina, three each from Massachusetts and New York, two apiece from Kentucky and South Carolina, and one each from New Hampshire, Tennessee and Georgia. Thus, if the names are correctly recorded the South cast seventeen votes against the measure, New England eleven, the Middle States seven, and the West three. In other words more opposition was recorded to the embargo south of the Mason and Dixon line than north of it.⁴³ The Senate likewise passed the bill, apparently with little debate, on April 22, by a vote of 21 to 5. The negative votes were cast by Goodrich and Hillhouse of Connecticut, Mitchill of New York, Pickering of Massachusetts and White of Delaware. Thus, no Senate opposition was recorded south of Delaware.⁴⁴

The growing agitation in the country had no apparent effect on Jefferson's control in Congress other than to unite the South in his support and to strengthen northern opposition. The enforcement bill passed first in the Senate December 21, by a vote of 20 to 7. The opposition votes were cast by Nicholas Gilman of New Hampshire, James Hillhouse and Chauncey Goodrich of Connecticut, James Lloyd and Timothy Pickering of Massachusetts, Elisha Mathewson of Rhode Island, and Samuel White of Delaware.⁴⁵ In spite of bitter debates in the House, the vote, January 6, 1809, was 71 to 32. Numbered in the negative, nevertheless, were votes from thirteen

⁴³ *Annals of Congress*, p. 2245.

⁴⁴ *Ibid.*, Vol. 17, p. 372.

⁴⁵ *Ibid.*, Vol. 19, p. 298.

states, even though nineteen of the votes came from Connecticut, Massachusetts, and New York thus proving that economic pressure was greater there or loyalty to the administration less strong. Connecticut cast seven votes against the enforcement act; Massachusetts and New York six apiece; Pennsylvania, Virginia, and North Carolina two each; and Vermont, New Hampshire, Rhode Island, Delaware, New Jersey, Maryland, and Kentucky each cast one negative vote. South Carolina, Georgia, Tennessee, Ohio, and Louisiana offered no opposition.⁴⁶

New England was strongly opposed to the embargo throughout the period. Hillhouse of Connecticut and Pickering, Livermore and Quincy of Massachusetts best represented this section. It should be noted, however, that some representatives as Cook and Bacon of Massachusetts at times supported the administration. Though more divided in sentiment than New England, the Middle States usually supported the administration. Some notable exceptions were Gardenier and Masters of New York, Key of Maryland, Bayard of Delaware, and Sloan of New Jersey. The South and West, while moderating their attitude as time passed, nevertheless supported the embargo policy, though several individuals as Randolph of Virginia, Troup of Georgia, and Lyon of Kentucky consistently or occasionally opposed it. The most prominent and influential representatives of the South and West, however, as Giles of Virginia, Macon of North Carolina, Williams of South Carolina, Johnson of Kentucky, and Campbell of Tennessee supported the embargo policy.

A few typical extracts from speeches made by a few of these men will be cited. In the House, on December 29, 1807, Edward St. Loe Livermore of Massachusetts, in opposition to the embargo discussed its effect on the fishermen. He declared that their living was precarious at best, and that throwing six thousand people out of employment was a serious evil. He said that surely a general embargo could not be intended to deprive them of their necessary work, a work that created "three millions out of nothing." "By suffering them to pur-

⁴⁶ *Ibid.*, p. 538.

sue their avocations on the ocean," he asked, "did it permit these men to violate any existing law?"⁴⁷

"As to its greatness," said Josiah Quincy, on April 19, in discussing the power and novelty of the embargo, "nothing is like it. Every class of men feels it. Every interest in the nation is affected by it. The merchant, the farmer, the planter, the mechanic, the laboring poor; all are sinking under its weight. But there is this peculiar in it; that there is no equality in its nature. It is not like taxation, which raises revenue according to the average of wealth, burdening the rich and letting the poor go free. But it presses upon the particular classes of society in an inverse ratio to the capacity of each to bear it. . . ."⁴⁸

On November 28, Quincy while speaking on foreign relations, made a strong attack on the embargo as a direct subservience to the views of the French emperor.⁴⁹ The measure came at a time, he urged, when the movement against Great Britain was most auspicious of success. In its operation, he declared, the American embargo was a coalition with France against British commerce. Changing his viewpoint, Quincy then declared that Great Britain's objects by her orders in council were: first "to excite distress among the people of the continent," and, second "to secure to herself that commerce of which she deprived neutrals." Our embargo, he said, cooperated with her views in both respects, for our abdication of the ocean deprived the continent of the advantages of commerce more than it would have been possible for the British Navy to effect. According to him, then, the United States played into the hands of Both France and England by passing the embargo.

In answer to Nathaniel Macon of North Carolina who had declared that he preferred three years of embargo to war and to John Clopton of Virginia who expressly stated that we should not allow our vessels to go upon the ocean again until the orders and decrees of the warring nations were rescinded, Quincy said:

Good Heavens! Mr. Chairman, are men mad? Is this House touched

⁴⁷ *Annals of Congress*, Vol. 17, p. 1248. William Milnor of Pennsylvania at once replied that "one of the principal objects of the embargo was to preserve our seamen" (*Ibid.*, p. 1252).

⁴⁸ *Ibid.*, Vol. 18, p. 2205.

⁴⁹ *Ibid.*, Vol. 19, pp. 534-547.

with that insanity which is the never-failing precursor of the intention of Heaven to destroy? The people of New England, after eleven months deprivation of the ocean, to be commanded still longer to abandon it, for an undefined period to hold their inalienable rights at the tenure of the will of Britain or of Bonaparte? A people, commercial in all aspects, in all their relations, in all their recollections of the past, in all their prospects of the future—a people, whose first love was the ocean, the choice of their childhood, the approbation of their manly years, the most precious inheritance of their fathers, in the midst of their success, in the moment of the most exquisite perception of commercial prosperity, to be commanded to abandon it, not for a limited time, but for a time unlimited—not until they can be prepared to defend themselves there, (for that is not pretended) but until their rivals recede from it—not until their necessities require, but until foreign nations permit! I am lost in astonishment, Mr. Chairman. I have not words to express the matchless absurdity of this attempt. I have no tongue to express the swift and headlong destruction which a blind perseverance in such a system must bring upon this nation.⁵⁰

In answer to one of his colleagues, Ezekiel Bacon, who held that Massachusetts was not suffering so much as represented, that the lower prices of beef, pork, butter, and cheese tended to equalize the higher prices of tea, sugar, salt, West India rum, and molasses, Quincy asked:

But has my honorable colleague travelled on the seaboard? Has he witnessed the state of our cities? Has he seen our ships rotting at our wharves; our wharves deserted, our stores tenantless, our streets bereft of active business; industry forsaking her beloved haunts, and hope fled away from places where she had from earliest time been accustomed to make and to fulfill her most precious promises? Has he conversed with the merchant, and heard the tale of his embarrassments—his capital arrested in his hands, forbidden by your laws to resort to a market, with property four times sufficient to discharge all his engagements, necessitated to hang on the precarious mercy of moneyed institutions for that indulgence which preserves him from stopping payment—the first step towards bankruptcy? Has he conversed with the mechanic? Has he seen him either destitute of employment or obliged to seek it in labors odious to him, because he was not educated to them? . . .⁵¹

Quincy insisted that it was impossible to enforce the embargo laws, and that the appeal to patriotism was useless, for, said he: "You cannot lay a man upon the rack and crack his muscles by slow torment, and call patriotism to soothe the

⁵⁰ *Ibid.*, p. 538.

⁵¹ *Ibid.*, pp. 538, 539.

sufferer.⁵² He next suggested a doubt as to the constitutionality of the embargo laws, declared them failures as measures of coercion against foreign powers, denied that they saved resources and insisted that repeal would not mean the payment of tribute. Three of his closing paragraphs are worth quoting entire:

However, suppose that the payment of this duty is inevitable, which it certainly is not, let me ask, is embargo independence? Deceive not yourselves. It is palpable submission. Gentlemen exclaim, 'Great Britain smites us on one cheek,' and what does the Administration? It 'turns the other also.' France and Great Britain require you to relinquish a part of your commerce, and you yield it entirely. Sir, this conduct may be the way to dignity and honor in another world, but it will never secure safety and independence in this.

At every corner of this great city, we meet some gentlemen of the majority wringing their hands and exclaiming, 'What shall we do? Nothing but the embargo will save us! Remove it, and what shall we do?' Sir, it is not for me, an humble and uninfluential individual, at an awful distance from the predominant influences, to suggest plans of government. But, to my eye, the path of our duty is as distinct as the milky way—all studded with living sapphires—glowing with cumulating light. It is the path of active preparation—of dignified energy. It is the path of 1776. It consists not in abandoning our rights, but in supporting them as they exist, and where they exist—on the ocean as well as on the land. It consists in taking the nature of things as the measure of the rights of your citizens, not the orders and decrees of imperious foreigners. Give what protection you can. Take no counsel of fear. Your strength will increase with the trial, and prove greater than you are now aware.

But, I shall be told this may lead to war. I ask, are we now at peace? Certainly not, unless retiring from insult be peace—unless shrinking under the lash be peace. The surest way to prevent war is, not to fear it. The idea that nothing on earth is so dreadful as war, is inculcated too studiously among us. Disgrace is worse. Abandonment of essential rights is worse.⁵³

On the next day, November 29, Ezekiel Bacon of Massachusetts replied to Quincy's speech. He urged that Quincy was not the only representative of Massachusetts and that embargo opponents had overstated the case though the people "have suffered and are now suffering much." He urged that he had travelled through the state, visited in the cities, and talked

⁵² *Ibid.*, p. 541.

⁵³ *Ibid.*, p. 547.

with more than one merchant who had himself as many of his ships rotting at the wharves as had most merchants of our country, and had found many of them, though suffering their full proportion of the general pressure of the time, satisfied that nothing better could have been done.⁵⁴

Only one embargo opponent from the Middle States will be noted. On February 20, 1808, Barent Gardenier of New York attacked the embargo in a speech as virulent and insulting perhaps as any John Randolph ever made. He asserted:

The more the original measure develops itself, the more I am satisfied that my first view of it was correct; that it was a sly, cunning measure. That its real object was not merely to prevent our vessels from going out, but to effect a non-intercourse. Are the nations prepared for this? If you wish to try whether they are, tell them at once what is your object—tell them what you mean—tell them you mean to take part with the Grand Pacificator; or else stop your present course. Do not go on forging claims to fasten us to the car of the Imperial Conqueror.⁵⁵

In spite of a call to order by the Speaker, Gardenier gathered heat as he continued. The two paragraphs which follow resulted in a second call to order and a hurried conclusion:

I am grieved to see that we are perpetually engaged in making additions and supplements to the embargo law. Wherever we can espy a hole, if it be no bigger than a wheat straw, at which the industry and enterprise of our country can find vent, all our powers are called into requisition to stop it up. The people of this country shall sell nothing but what they sell to each other. All our surplus produce shall rot on our hands. God knows what all this means! I, sir, I cannot understand it. I am astonished—indeed I am astonished and dismayed. I see effects; but I can trace them to no cause. Yes, sir, I do fear that there is an unseen hand which is guiding us to the most dreadful destinies—unseen, because it cannot endure the light. Darkness and mystery overshadow this House and this whole nation. We know nothing, we are permitted to know nothing. We sit here as mere automata; we legislate without knowing, nay, sir, without wishing to know why or wherefore. We are told what we are to do, and the Council of Five Hundred do it. We move, but why or wherefore no man knows; we are put in motion, but how, I for one cannot tell. . .

If the motives and the principles of the Administration are honest

⁵⁴ *Ibid.*, pp. 563, 564.

⁵⁵ *Ibid.*, Vol. 18, p. 1564. Remarks growing out of this speech led to a duel with G. W. Campbell in which Gardenier, the challenger, was wounded (*Rel's Philadelphia Gazette and Daily Advertiser*, March 5, and *Paulson's American Daily Advertiser*, March 7).

and patriotic, we would support them with a fervor which none could surpass. But, sir, we are kept in total darkness. We are treated as the enemies of our country. We are permitted to know nothing, and execrated because we do not approve of measures, the origin and tendency of which are carefully concealed from us! We are denounced because we have no confidence in the Executive, at the moment the Executive refuses to discover to us—even this House, nay, sir, this nation, its actual condition. Like the Israelites in Egypt, we are to make brick and find our own straw. We are to have faith, and find out our reasons for it. This course will do in this country no longer.⁵⁶

On April 19, John Randolph of Roanoke declared that there were those who did not suffer from the embargo, that at least one hundred thousand barrels of flour had been shipped from Baltimore alone since the embargo was passed, that the embargo only furnished rogues an opportunity of getting rich at the expense of honest men, that bonds were forfeited, that speculators bought up property at half its value, that a premium was placed on dishonesty, and that morals were consequently lowered. He contended that flour was carried so freely to the West Indies that it became a point of honor not to tell on one another.⁵⁷ On November 30, Randolph drew a harrowing picture of the embargo effect on tobacco, which he summarized as “deplorable.”⁵⁸

On the same day, R. M. Johnson of Kentucky in the course of a long speech⁵⁹ had declared that the West Indies were already feeling the pressure of the embargo, for flour had sold from twenty to sixty dollars per barrel, and that Great Britain was deprived of four million pounds worth of tobacco, cotton, wheat, and the substantials of life. We bought twelve million pounds worth of manufactured goods and received money by European trade to pay the balance of eight million pounds, he said. This trade was destroyed, he urged, not by the embargo, but by the orders in council.⁶⁰

Embargo opponents, as John Randolph and Josiah Quincy, early cast doubts on the constitutionality of the embargo; .

⁵⁶ *Annals of Congress*, Vol. 18, pp. 1656, 1657.

⁵⁷ *Ibid.*, pp. 2239, 2240.

⁵⁸ *Ibid.*, Vol. 19, p. 598.

⁵⁹ *Ibid.*, pp. 581-590.

⁶⁰ *Ibid.*, p. 597.

hence some of the strong embargo supporters, as R. M. Johnson of Kentucky,⁶¹ G. W. Campbell of Tennessee,⁶² and D. R. Williams of South Carolina, took up the matter. The latter declared in part:

I contend that the power to lay an embargo is granted in the power to regulate commerce with foreign nations, and among the several states, and with the Indian tribes! If you cannot prohibit commerce with a particular post or nation, of what avail is the power to regulate it? . . . The embargo is not an annihilation but a suspension of commerce to regain the advantage of which it has been robbed; it follows that it is a constitutional regulation of commerce.⁶³

It appears advisable just at this time, without further quotations, to summarize the principal Congressional arguments for and against the embargo. The main arguments for the embargo were: It preserves our seamen, property, and other resources, and gives adequate protection to our citizens. It will bring foreign nations to terms and force them to do justice to the United States. In the case of England it injures her manufactures by depriving her of raw materials, and undermines her naval strength through the loss of naval stores. France is injured through the loss of luxuries, and Spain, her ally, is injured even more. It will starve the West Indies and thus force the mother countries to repeal their obnoxious orders and decrees. Later, embargo friends contended that they could not have foreseen that the European nations would let their colonies starve. It prevents war without giving just cause for offense. Remove embargo, and war more costly than the present system is inevitable, said the embargo advocate. It encourages the developing of manufactures and the building of houses. It operates on all sections of the union. Later, when losses could not be denied, the blame was placed not upon the embargo, but upon the English orders and the French decrees.

The arguments against the embargo were more varied and more violent: It destroys our resources. Products of the farm and sea perish. Sailors and fishermen are leaving the

⁶¹ *Ibid.*, Vol. 18, p. 2091.

⁶² *Ibid.*, p. 2147.

⁶³ *Ibid.*, pp. 2129, 2130.

ral prices and real estate are falling. Stay
 1. Speculation is rife. Money is driven
 rest rates are raised. Merchants are
 . Towns are injured. Poor-houses
 d. It is not effective. France laughs.
 ices the measure. No warring country
 embargo. England has already won new
 ally party seriously injured is ourself. It was
 ect submission to Napoleon and was aimed at
 t is a recognition of a servile position, a surrender
 gnty, and means loss of self respect. It has ruined
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⁶⁴ See *American State Papers, Class 1, Foreign Relations*, Vol. III, p. 249 for M.
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country. Agricultural prices and real estate are falling. Stay laws have to be passed. Speculation is rife. Money is driven out of the country. Interest rates are raised. Merchants are failing. Markets are lost. Towns are injured. Poor-houses and prisons are crowded. It is not effective. France laughs. England scarcely notices the measure. No warring country cares about our embargo. England has already won new markets. The only party seriously injured is ourself. It was passed in direct submission to Napoleon and was aimed at England. It is a recognition of a servile position, a surrender of sovereignty, and means loss of self respect. It has ruined agriculture and prostrated commerce. Ships are rotting at the wharves, and there is no compensating gain in manufactures. It operates unequally, for some sections of the country suffer more than others, and the poor are injured more than the rich. It dries up the government revenues. It is tyrannical, despotic, and indefinite in time of operation. It has already "federalized" New England and will, if continued, "federalize" the rest of the country. It cannot be enforced. Smuggling is going on continually. Courts will not convict and in many cases their sittings have been entirely suspended. It is unconstitutional and threatens the danger of armed opposition and a separation of the states.

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hence some of the strong embargo supporters, as R. M. Johnson of Kentucky,⁶¹ G. W. Campbell of Tennessee,⁶² and D. R. Williams of South Carolina, took up the matter. The latter declared in part:

I contend that the power to lay an embargo is granted in the power to regulate commerce with foreign nations, and among the several states, and with the Indian tribes! If you cannot prohibit commerce with a particular post or nation, of what avail is the power to regulate it? . . . The embargo is not an annihilation but a suspension of commerce to regain the advantage of which it has been robbed; it follows that it is a constitutional regulation of commerce.⁶³

It appears advisable just at this time, without further quotations, to summarize the principal Congressional arguments for and against the embargo. The main arguments for the embargo were: It preserves our seamen, property, and other resources, and gives adequate protection to our citizens. It will bring foreign nations to terms and force them to do justice to the United States. In the case of England it injures her manufactures by depriving her of raw materials, and undermines her naval strength through the loss of naval stores. France is injured through the loss of luxuries, and Spain, her ally, is injured even more. It will starve the West Indies and thus force the mother countries to repeal their obnoxious orders and decrees. Later, embargo friends contended that they could not have foreseen that the European nations would let their colonies starve. It prevents war without giving just cause for offense. Remove embargo, and war more costly than the present system is inevitable, said the embargo advocate. It encourages the developing of manufactures and the building of houses. It operates on all sections of the union. Later, when losses could not be denied, the blame was placed not upon the embargo, but upon the English orders and the French decrees.

The arguments against the embargo were more varied and more violent: It destroys our resources. Products of the farm and sea perish. Sailors and fishermen are leaving the

⁶¹ *Ibid.*, Vol. 18, p. 2091.

⁶² *Ibid.*, p. 2147.

⁶³ *Ibid.*, pp. 2129, 2130.

country. Agricultural prices and real estate are falling. Stay laws have to be passed. Speculation is rife. Money is driven out of the country. Interest rates are raised. Merchants are failing. Markets are lost. Towns are injured. Poor-houses and prisons are crowded. It is not effective. France laughs. England scarcely notices the measure. No warring country cares about our embargo. England has already won new markets. The only party seriously injured is ourself. It was passed in direct submission to Napoleon and was aimed at England. It is a recognition of a servile position, a surrender of sovereignty, and means loss of self respect. It has ruined agriculture and prostrated commerce. Ships are rotting at the wharves, and there is no compensating gain in manufactures. It operates unequally, for some sections of the country suffer more than others, and the poor are injured more than the rich. It dries up the government revenues. It is tyrannical, despotic, and indefinite in time of operation. It has already "federalized" New England and will, if continued, "federalize" the rest of the country. It cannot be enforced. Smuggling is going on continually. Courts will not convict and in many cases their sittings have been entirely suspended. It is unconstitutional and threatens the danger of armed opposition and a separation of the states.

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⁶⁴ See *American State Papers, Class 1, Foreign Relations*, Vol. III, p. 249 for M. Champagny's letter and *ibid.*, p. 221, for Madison's statement as to the desires of both countries.

of State, a brief note full of prophecy and good advice. It follows in part:

We have somewhat overrated our means of coercing the two great belligerents to a course of justice. The embargo is a measure calculated above any other, to keep us whole and keep us in peace; but, beyond this, you must not count upon it. Here it is not felt and in England (in the midst of the more recent and interesting events of the day) it is forgotten.

I hope that, unless France shall do us justice, we will raise the embargo, and make in its stead the experiment of an armed commerce. Should she adhere to her wicked and foolish measures, we ought not to content ourselves with doing this; there is much, very much besides that we can do and we ought not to omit doing all we can, because it is believed here that we cannot do much, and even that we will not do what we have the power of doing.⁶⁵

The efforts of Pinckney and Madison to secure removal of the orders in council were more protracted but were equally unavailing. On September 23, Canning, the English Secretary, addressed two notes to Pinckney. One of these was perhaps the most sarcastic note ever sent by one diplomat to another. Canning held that while the embargo did not injure England it should not have been extended to her. The cutting part of the note, however, came especially in this paragraph:

His Majesty would not hesitate to contribute in any manner in his power to restore to the commerce of the United States its wonted activity; and if it were possible to make any sacrifice for the repeal of the embargo, without appearing to deprecate it as a measure of hostility, he would gladly have facilitated its removal as a measure of inconvenient restriction upon the American people.⁶⁶

Pinckney's letter of December 28, 1808, to Canning, virtually closed the correspondence during the continuance of the embargo. It was very brief, only three sentences, but equally as ineffective as Armstrong's attempts for diplomatic victory in France and Pinckney's other diplomatic exchanges in England. The last two sentences follow:

It is perfectly true, as the concluding paragraph of your letter supposes me to believe, that the United States have viewed with great

⁶⁵ *Ibid.*, p. 256. This was decidedly unlike the attitude of Pinckney, who a month later, September 21, sent Madison a long economic argument in favor of the continuance of the embargo (*Ibid.*, pp. 228-230).

⁶⁶ *Ibid.*, p. 232.

sensibility the pretension of this Government . . . to levy imposts upon their commerce outward and inward which the orders in council of the last year were to constrain to pass through British ports.

But it is equally true that my Government has constantly protested against the entire system with which that pretension was connected, and has, in consequence, required the repeal, not the modification, of the British orders in council.⁶⁷

⁶⁷ *Ibid.*, p. 240.

CHAPTER IV

ECONOMIC EFFECTS OF THE EMBARGO ON WAR- RING NATIONS, ESPECIALLY ENGLAND AND HER COLONIES

So far as France herself was concerned the embargo did little harm. France was an agricultural country and self-sufficing. Prices of luxuries naturally went up, but this affected the common people only to a small extent. Manufactures were of little importance, for the industrial revolution had not yet begun, at least to any extent; hence the shutting out of cotton weighed little in the scale. Napoleon was well-nigh master of the continent and supplies of various kinds came in openly or by smuggling. Even some of the French soldiers whom Napoleon later led against Moscow were, it is said, clothed in English woollens and shod with English shoes.¹ On the French colonies the burden of the various commercial restrictions pressed harder, but had they pressed with ten times the weight on France and her colonies, had they deprived the people of needed food and left them half starved, the autocratic emperor would still have persisted in his decrees in the attempt to bring England to her knees. A man who would not hesitate to sacrifice thousands of his beloved soldiers on the altar of war could scarcely hesitate to let women and aged people suffer, provided the suffering pressed with equal or greater weight on his enemy.

In spite of Canning's sarcastic notes and the views of many writers, England suffered to some extent from the embargo, but not sufficiently to bring about the repeal of the offensive orders in council. Many writers and speakers ridiculed the measure. Frank Landon Humphreys wrote: "Europe viewed the act with sarcastic amusement, and England with its large commerce in every part of the world did not perceptibly feel

¹ Gibbins, H. de B., *Industry in England*, p. 382.

the loss of the American market for its goods.'² Likewise various speakers in the American Congress claimed that the embargo had failed. In the Senate on November 21, 1808, in supporting a resolution for the repeal of the embargo, James Hillhouse of Connecticut declared that it had exercised no effect on France and little or no effect on England. Other markets, he claimed, were open to the latter. The West Indies, he held, would turn their sugar plantations into corn fields and we could not regain our trade, for other countries produced cheaper; in South America where cattle had formerly been killed only for their hides and tallow, he argued, beef would now be used; England would, he insisted, get her cotton from the East Indies and Africa; by her control of the sea, he said, all needed products would go to her, then, if any were left perhaps to other nations. He attempted to prove by past history that Americans would continue to use foreign goods and pointed out the futility of thinking that the embargo laws could be enforced over fifteen hundred miles of sea coast and a territory bordering on Canada.³

On February 14, 1809, in favoring the total repeal of the embargo in the Senate, J. A. Bayard of Delaware declared that it was not a measure against France, for the Emperor had commended it; and he never approved of measures which did not agree with his designs. The object, he held, as generally admitted was to coerce Great Britain. With regard to this attempt he said:

It seems now to be admitted, and the fact is too evident to be denied, that the embargo has failed in its coercive effect upon Britain. The lack of bread, cotton, or lumber, has neither starved her subjects nor excited them to insurrection. Some gentlemen have shrewdness enough to discover an effect in an English price current, which might, to be sure, have been owing to the embargo, or might have been produced by the operation on the market of some private speculations. But it has enriched Canada and has taught the islands their policy and ability to live without us.⁴

On January 2, 1808, Timothy Pickering wrote to Rufus King from Washington:

² *Life and Times of David Humphreys, Soldier-Statesman-Poet*, p. 382

³ *Annals of Congress*, Vol. 19, pp. 20-24.

⁴ *Ibid.*, Vol. 19, p. 404.

Although the embargo is unquestionably levelled at Britain, and she might resent it, I trust she will not. By it we withdraw from the field, where alone we come in collision. She may be content quietly to enjoy the monopoly of commerce which we voluntarily abandon. I hope she will adopt this policy, which, to me, seems evidently the best for her and for us. I believe at the same time, it would disappoint our rulers, who would be more angry with the British Ministry if the repeal of the law should be required not by them, but by the clamours of our own suffering citizens refusing any denial.⁵

On the other hand, some writers believed, as did Jefferson and his entire cabinet at the start, that the embargo would bring England to terms. One of these, T. C. Amory, in speaking of the effect of the embargo on England, said:

England suffered in other ways than those mentioned by Mr. Madison from the embargo [loss of naval stores and food stuffs]. Already more than one-half of the sixty-one million pounds of cotton consumed in her mills were of American production, and the annual balance of our trade in her favor amounted to eight millions sterling. Our markets were important to her manufactures, our ports afforded a convenient shelter for her fleets. Moreover, there was sensible ground for apprehension that, under its continued pressure, distress would force us into a French alliance; and, if not very formidable by ourselves, we should have greatly contributed to the strength of Napoleon. . . .⁶

Studies of prices in England during this period show that the embargo was not entirely without effect, though to be sure, these variations may have been due in part at least to such influences as private speculations, hoarding, fluctuations in the currency, and the successes or failures of the English arms. Most people, nevertheless, will admit that a limitation of the supply, unless accompanied by a corresponding decrease in demand, causes an increased price. According to John MacGregor the average price of sperm oil per ton was £93 in 1807, £111 in 1808, and £120 in 1809; the average price of common oil was, for the same years, £29, £41, and £48.⁷ Carolina rice of a certain grade advanced from 32 to 96 per cent, 1807-1808; Georgia bowed cotton-wool more than doubled; and Virginia tobacco of a certain grade advanced from 200 to

⁵ *Life and Correspondence of Rufus King*, Vol. V, p. 45.

⁶ *Life of James Sullivan with Selections from His Writings*, Vol. II, p. 258.

⁷ *The Progress of the Nation*, Vol. II, p. 609.

256 per cent in value. Further advances also occurred for most grades in 1809.⁸

The cotton prices of November and December, 1808, and January and February, 1809, were double those of the corresponding months in the previous years. The following table indicates the prices:

	1807		1808		1809	
	Bowed	Sea Island	Bowed	Sea Island	Bowed	Sea Island
January	16 -17d	25-26½d	18½-14d	25½-29d	31½-32d	69d
February	16½-17½	25-28	14 -16	26½-29	27 -28½	57
March	17½-19	27-29	14½-15½	27½-30	25 -27	48
April	17 -17½	28-30	15 -16	27½-30	18 -20	33 -34
May	16½-17½	27-28	18 -19½	28 -31½	16 -16½	27 -30
June	16½-17½	27-28	18½-19	27	18½-15	24½-27
July	17½-18	26-27	20½-22	29 -36	14½-15½	25 -28½
August	15 -16½	26-27	21 -22½	36 -42	16½-17	27 -27½
September	14½-16½	24-26½	24 -30	36 -42	16 -18	24 -26
October	12½-15½	24-27	31 -33	48	18 -19	28½
November	13 -14½	24-26	30 -31½	52	19 -21½	28 -29½
December	13 -14	24-26	31 -32	52 -60	20½-22	29 -30

Liverpool imported 143,756 bags of cotton from the United States in 1807; 25,426 in 1808; and 130,581 in 1809.⁹

The English Labour Department in 1902 made a report on wholesale and retail prices in the United Kingdom and gave statistical tables for a series of years. The average price for the imperial quarter of wheat in 1806 was 79s 4d.; in 1807, 75s 4d.; in 1808, 81s. 4d.; in 1809, 97s. 4d.; in 1810, 106s. 5d. For the same years the average price for barley was 38s. 8d.; 39s. 4d.; 43s. 5d.; 47s; and 48s. 1d.; for oats 27s, 7d.; 28s. 4d.; 33s. 4d.; 31s. 5d.; and 28s. 7d.¹⁰

It must be remembered, of course, that England was well-nigh self-supporting in grain at this time and that she held control of the sea and could carry the necessary products for herself without the aid of the United States. At the Royal Hospital of Greenwich, a 280 pound sack of wheat flour cost 82s.3d. in 1805; 69s.7½d. in 1806; 63s8¾d. in 1807; 69s.10½d.

⁸ Tooke, T., *A History of Prices*, Vol. II, pp. 407, 409, 418.

⁹ Daniels, G. W., has the best account of this trade in an article entitled "American Cotton Trade with Liverpool Under the Embargo and Non Intercourse Acts." This article is found in the *American Historical Review*, Vol. XXI, pp. 276-287. The table is on page 287.

¹⁰ Labour Department's *Report on Wholesale and Retail Prices in the United Kingdom in 1902, with Comparative Statistical Tables for a Series of Years*, p. 70.

in 1808; 85s.11½d. in 1809; and 88s.4d. in 1810.¹¹ The assize price per quartern loaf of bread in the city of London was 10¼d. October 27, 1807; 11d. March 22, 1808; 1s. June 21, 1808; 1s.3½d. November 21, 1808; 1s.3½d. February 28, 1809; and 1s.1¼d. June 6, 1809. The latter was the lowest price reached during the year. The highest price during 1807, 1808, and 1809 was set on October 3, 1809 at 1s.5d.¹²

It will thus be observed that the price increased after the embargo was passed and enforced, and that soon after its repeal the low point of the year was reached. Many of the sugar importations had been carried by American ships, but England with her control of the sea could supply the need; hence the price of sugar was not affected to a great extent. Nevertheless, the price did increase a little, 1807-1809. Thus the average price per hundred weight of unrefined sugar, exclusive of the duty, was 51s.8d. in 1805, 43s.9d. in 1806, 34s.1d. in 1807, 38s.8d. in 1808, 46s.3d. in 1809, and 49s.1d. in 1810.¹³ By taking the prices in 1782 as the standard prices and the number of price quotations as 39, Professor Jevons gets the following index numbers: 1805—132; 1806—130; 1807—129; 1808—145; 1809—157; 1810—142. The low point for the thirty year period, 1792-1821, was 91 in 1816 after the wars and restrictions were over.¹⁴

English papers and magazines admitted scarcity, showed high prices, and in some cases attributed the bad conditions directly to the embargo. The following tables, compiled from the *Gentleman's Magazine and Historical Chronicle*, show variations in the prices of articles not imported directly to any great extent from the United States:

¹¹ *Ibid.*, p. 99.

¹² *Ibid.*, p. 218.

¹³ *Ibid.*, p. 218.

¹⁴ *Ibid.*, p. 450.

Average prices for England and Wales by which exportation and bounty were regulated

Wheat	Rye	Barley	Oats	Beans	Peas	Oatmeal	Time
s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	
69 3	46 1	38 10	29 2	55 10	74 6	39 9	Jan. 16, '08
81 8	57 10	44 7	37 11	62 9	69 6	51 11	July 16, '08
89 6	60 1	44 2	32 1	64 8	73 10	47 1	Dec. 17, '08
92 9	64 6	44 4	31 9	60 10	67 1	48 5	Feb. 18, '09
90 6	61 10	43 6	30 8	58 10	56 9	50 0	May 20, '09
88 1	56 9	42 5	29 1	55 7	56 11	49 5	July 22, '09
100 5	61 0	46 8	31 1	58 0	61 4	51 9	Sept. 16, '09

Flour per sack			Sugar per cwt.		
Fine	Seconds	Time			Time
55-68s.	55 to 60s.	Jan. 25, '08	33s	7d.	Week ending Jan. 20, '08
66	55 to 60	July 26, '08	41	0½	July 20, '08
85	75 to 80	Dec. 24, '08	49	8d.	Dec. 21, '08
85	75 to 80	Feb. 20, '09	49	0¼	Feb. 22, '09
75 to 80	70 to 75	May 22, '09	38	10d.	May 24, '09
75	65 to 70	July 24, '09	40	10¾	July 26, '09
95 to 100	90 to 95	Sept. 25, '09	47	7	Sept. 20, '09 ¹⁵

By keeping in mind the date of the embargo and the various supplemental laws to enforce it, the reader will notice that prices of commodities for which England was only slightly dependent on the United States rose after the passage of the embargo and fell with its repeal, although, to be sure, non-intercourse caused a further rise later on.

Good crops in 1808, it should be noted, relieved the pressure of the embargo in England. A letter, dated at Manchester, July 22, and addressed to an American read in part:

In regard to Agriculture, we never had a more luxuriant season—Pasture and mowing grass in abundance—the crops of Grain and Potatoes promise well, and notwithstanding the Embargo in the United States, *Wheat* is decreasing in price, Potatoes 2/6 per bushel and expected to be down to 1/3.¹⁶

Another Manchester letter dated October 4, 1808, said:

The crops are very abundant in everything. Oatmeal, the last fortnight, has fallen from 58 shillings per load (of 240 lbs.) to 47 shillings. Flour is 55 shillings per load (of 240 lbs. equal to wheat at 12) per Winchester bushel. Potatoes have got down very low, the last three weeks; they have sold at fifteen pence the Winchester bushel, for the

¹⁵ *The Gentleman's Magazine: and Historical Chronicle*, for 1808 and 1809, Vol. 78; pp. 95, 663, 1135; and Vol. 79; pp. 191, 487, 687, 895.

¹⁶ *Boston Gazette*, September 22, 1808.

common, and eighteen pence (equal to 33 cts.) for the better sort. The crops of hay have been very abundant and well got in.¹⁷

If, however, in spite of good crops, those commodities for which England was only slightly dependent upon the United States varied to some extent, what may be expected with regard to such articles as tobacco and cotton? Pinckney's letter of September 21, 1808, to Madison already alluded to pointed out some of these effects but more will be given now. During the early months of 1809 John Trumbull wrote several letters to Rufus King. In these letters he discussed economic conditions in England. Since he was opposed to the embargo, rather free quotations will be made from his letters. On January 8, 1809, he wrote from Falmouth:

I am informed by Mr. Fox here, that the price of corn has been falling for some weeks past, and not the least apprehension of scarcity is now entertained; since threshing commenced, the crop proves to have been much less damaged than was at one time apprehended. The quartern loaf (4 lbs. & 5 oz.) now sells at a shilling.

The price of Hemp is enormous, £170 the ton, but Government have large supplies in store; considerable quantities have found their way from Russia thro' the means of neutrals, & the India Company have contracted to furnish 1000 Tons, the arrival of part of which is soon expected. Tallow, (a Russian article) has been very high, but is falling rapidly in consequence of importations from Brazil. Cotton is also rather falling in value in consequence of some arrived & large quantities expected from Brazil and India. Pilchards, of which immense quantities are annually caught on this coast, and usually sent to the Mediterranean, are now shipping for the West Indies. . . .¹⁸

On February 12, 1809, Trumbull wrote to King from London. He said, in part:

You will judge of the danger to which this country is exposed from the want of corn by the following returns of the Corn Exchange:

Nov. 26th, 1808, Wheat, 75/ to 90/. Flour, 75 to 80/.

Feby. 6th, 1809, Wheat, 75/ to 90/. Flour, 75 to 85/.

Several cargoes of Cotton have arrived within these few days from America and some Tobacco, in defiance of the Gunboats. Hemp, Timber, & Flaxseed are very dear. Shipments of British Manufactures are making at Liverpool for America almost equal in extent to what is done in common times.

¹⁷ *Ibid.*, December 19, 1808.

¹⁸ *Life and Correspondence of Rufus King*, Vol. V, p. 124.

27th Feby.—Numerous Cargoes of Cotton & Tobacco have lately arrived from the U. S., principally consigned to Baring & said to be owned by them. These arrivals have essentially affected the price of Cotton, which is now dull.¹⁹

On April 5, 1809, Trumbull again wrote to King from London, in part as follows:

The price of Corn and Flour is gradually falling, Cotton is at /18 d. a pound; Tobacco at /9 d.; Flaxseed fallen from £20 to £5, and the country generally in prosperity. . . Farmers on old leases grow rich, and as leases fall in, the Rents are generally raised by the offers of the farmers themselves from 50 to 100 p. ct. Thus the proprietor of the soil becomes much richer than he was, and the farmer is of course satisfied.

The Result of our Supernatural Wisdom will be to satisfy, first the World and finally ourselves, that the importance of America in the scale of Nations has been very much over rated—and when our national vanity is a little lowered, we shall certainly be a more estimable people—thus things work together for good.²⁰

Trumbull's sarcastic comments were, no doubt, due in part, to the effect of the embargo on his pocket book, but even his statements show that the embargo and Napoleon's scheme, of which many Federalists believed the embargo to be a part, did affect prices and economic conditions in England. This was particularly true, as Trumbull intimated, of hemp, tallow, flaxseed, tobacco, and cotton. Possibly the limitation in the supply of the latter was the greatest effect produced in England by the embargo. Nevertheless, even English writers admitted that the prices of goods which Great Britain obtained from the United States went up when the embargo was passed and fell when it was repealed. Such a statement needs no confirmation, but one quotation appearing in a London magazine of June, 1809 will be given:

Upwards of seventy American vessels have entered different British ports during the last week, with cargoes so very large as to occasion an almost instantaneous reduction in the price of flour, cotton, tobacco, rice, staves, pitch, turpentine, etc. A description of cotton, called bowed Georgias, which sold at 3s. during the embargo, is now so low as 1s. 2d., and was expected to have a further depression in the course of a few days.²¹

¹⁹ *Ibid.*, p. 144.

²⁰ *Ibid.*, p. 150.

²¹ *The Gentleman's Magazine: and Historical Chronicle*, Vol. 79, p. 572.

The exact cost of the embargo to England can not be definitely known. According to an exaggerated statement in the *National Intelligencer* of May 1, 1809, the embargo advanced the price of flour from \$7.50 per barrel to \$15, increased the price paid for other provisions and raw materials, and lessened manufactures. Estimating the advanced price paid for provisions at \$15 for each of six million people, (the total population was fourteen million) the loss occasioned England on foodstuffs alone, it was claimed, amounted to ninety million dollars.

The movement of goods from American ports decreased from \$108,343,150 in 1807 to \$22,430,960 in 1808, or more than 79 per cent. The exports to Great Britain fell from \$31,015,623 in 1807 to \$5,183,297 in 1808, or more than 83 per cent.²² The value of the imports into the United States in 1807 was \$138,500,000 but only \$56,990,000 in 1808, or a decrease of over 58 per cent; the dutied imports from England fell from \$38,901,838 in 1807 to \$18,818,882 in 1808 or about 52 per cent.²³ Thus, it will be noticed that in spite of the prohibition of importation of fine goods by Nicholson's act,²⁴ the import trade decreased less than the export and the English trade decreased less than the general import trade. Many of the articles imported into the United States were just as regularly re-exported to the West Indies, perhaps to the amount of ten or fifteen million dollars worth each year, a sum practically equivalent to the value of the goods imported duty free from England. This trade was now naturally thrown back into English hands.

According to Henry Adams, the best authority on this

²² MacGregor, John, *The Progress of the Nation*, Vol. II, pp. 881-883. These exports were in the last three months of 1807, as Gallatin points out, for the subsequent exportations were forbidden by the embargo (*Annals of Congress*, Vol. 19, p. 913).

²³ Pitkin, T., *Statistical View*, p. 202.

²⁴ See *United States Statutes at Large*, Vol. II, p. 469. The act of February 27, 1808 was supplementary to the act of April 18, 1806 (*Statutes at Large*, Vol. II, pp. 379-381). The act of 1808 prohibited the importation of all articles manufactured "entirely of silk and wool, or of silk and flax, or of flax and wool; floor cloths; woolen cassimeres, carpets, carpeting and mats, whose invoice price shall exceed five shillings sterling per square yard." Both of these acts were repealed by the act of March 1, 1809 (*United States Statutes at Large*, Vol. II, Sec. 17, Page 532).

period, the true consumption of the United States was not over thirty-five million dollars, and the loss of this trade was partly offset to England by gain in freights, recovery of seamen, and by smuggling. Napoleon's decrees reduced the purchasing power to the extent of perhaps ten million dollars. If the British merchants made a profit of twenty per cent on the American trade, their loss was not over five million dollars. This sum, of course, was not vital when England's expenditures amounted to three hundred and fifty million dollars a year and her export trade to almost two hundred million dollars. Moreover, notwithstanding the embargo and non-importation law, the exports of Great Britain were worth two million dollars more in 1808 than in 1807.²⁵

Evidently new markets were opened. As previously stated, England began to increase her trade with other parts of the world as Africa, India, the East Indies, and South America, especially Brazil. In October, 1807, Napoleon ordered the Portuguese government to make war on England and confiscate all English property. When that government refused to obey the second part of the order, the dictator ordered General Junot to invade Portugal and take charge of affairs. Thereupon the members of the royal Portuguese family sailed for their Brazilian empire. Naturally numerous articles were now imported to Brazil from England and increasing exports went to England from Brazil.

Moreover, the Spanish revolt against Napoleon, Joseph, and the French in July, 1808, threw open the Spanish South American colonies to English trade.²⁶

Thus good markets and high prices for woolen manufactures and other goods, according to a Manchester letter of October 4, were found in South America.²⁷ A man in London wrote to a Savannah merchant concerning the developing of British

²⁵ *History of the United States*, Vol. IV, pp. 328, 329. Professor L. M. Sears in an excellent article entitled "British Industry and the American Embargo" in the *Quarterly Journal of Economics*, November, 1919, (page 108) estimates the net loss of imports from Europe, Africa, and America, as £1,668,633 and the net loss in all exports as £405,276 out of a total of £35,007,501. He points out (page 110) also the disturbance in exchange occasioned by the embargo and quotes gold as eighty shillings per ounce in 1807 and ninety-one shillings in 1808.

²⁶ Robinson and Beard, *Development of Modern Europe*, Vol. I, pp. 328, 329.

²⁷ *Boston Gazette*, December 19, 1808.

trade in South America and the losses of the United States under date of October 7, 1808, in part as follows:

We see a number of British ships going out to Charleston and your place, in expectation no doubt of getting cotton in East Florida, which will pay them well, for it is getting in great demand here, notwithstanding the market is daily fed by arrivals from the Brazils, in very considerable quantities—those fortunate adventurers, who sent out cargoes of Dry Goods to the Brazils, have returned with Rice and Cotton, and cleared upwards of 100 per cent profit. It grieves us to see the Brazil rice coming in and some of it very fine, fetching 44 shillings per cwt.—cost 5 shillings there. Good God! What is the Embargo for, but to throw the United States back 50 years, and divert all their trade to other channels. It is folly to talk of the freedom of the seas to a country, who has nearly destroyed the navies of the world, and got almost all the remainder into her possession—you think the embargo will be off in November. We think not, and that it will continue until a General Peace. Sea-Island Cotton, 3s. 6d. to 4s. 6d. per lb., upland 3s.; Rice, 40 to 45s. per cwt.²⁸

The opening of these new markets naturally did much to offset English losses from the American embargo. In fact, Professor Channing, a gifted student of this period, goes so far as to say: "It fell out in this way, therefore, that the embargo proved to be a positive benefit to British shipowners and exporters."²⁹ Professor Channing, however, probably goes too far, at least if the *Edinburgh Review*, July, 1809, is to be trusted in its remarks on British salvation:

We allude to the opening of Spain and Portugal, and our military expeditions in these countries—the struggle made by Sweden, and the increased communication with Brazil and Spanish America—not to mention the fact that the year which gives this amount of loss comprehends the period when shipments were made on both sides, before the operation of the embargo, and when hazards were run by neutral adventurers upon the presumption that neither of the regulations would be enforced as they actually were. Had it not been for these circumstances, our loss of trade in consequence of the Orders would probably have been more than double what it actually was; and this boasted "cure" for our commercial embarrassments would in all probability, have reduced our

²⁸ *Paulson's American Daily Advertiser*, January 13, 1809.

²⁹ *The Jeffersonian System*, pp. 228, 229.

whole foreign trade to a little wretched smuggling in Europe and America.³⁰

It must not be supposed that the embargo rested lightly or profitably on all classes of English society. The farmers and merchants who profited from high prices and profiteering were near to official England and could loudly voice their satisfaction. On the other hand, the poor factory workers had no representation. If they rioted because of the high cost of living, low wages, or the closing of shops incident to the loss of American cotton, they were put down with cruelty and their complaints were scarcely given a hearing. They were unorganized, without political rights, and had few defenders; hence they were obliged to suffer. Many did suffer, as the increasing sum used for poor relief showed. In 1803 and 1804 the average sum expended was £4,268,000; in 1811, it was £5,923,000; in 1813-1815 when the restrictions and war had produced their full effect, the poor rates averaged £6,130,000.³¹ The brief summary by Henry Adams is worth quoting in entirety:

Probably at least five thousand families of workingmen were reduced to pauperism by the embargo and the decrees of Napoleon; but these sufferers, who possessed not a vote among them and had been in no way party to the acts of either government were the only real friends Jefferson could hope to find among the people of England; and his embargo ground them in the dust in order to fatten the squires and ship owners who had devised the Orders in Council. If the English laborers rioted, they were shot; if the West Indian slaves could not be fed, they died. The embargo served only to lower the wages and the moral standard of the laboring classes throughout the British empire, and to prove their helplessness.³²

The effect of the embargo on English manufactures was undoubtedly harmful. The merchants and manufacturers of Liverpool petitioned Parliament for the repeal of the orders in council. One of the arguments used was that the United States normally bought over ten million pounds worth of English manufactures, but that she could not continue this

³⁰ Quoted by Sears, L. M., in "British Industry and the American Embargo" (*Quarterly Journal of Economics*, November, 1919, pp. 111, 112).

³¹ Adams, Henry, *History of the United States*, Vol. IV, pp. 329, 330.

³² *Ibid.*, p. 330.

when her markets were closed. In a discussion in the House of Commons on March 7, it was stated that there was only sufficient silk in the country to last for six weeks and that probably sixty thousand industrial workers would be thrown out of employment in a short time. It was claimed, moreover, that the usual importation of flax seed amounted to sixty thousand hogsheads and that only ten thousand had been received. A number of merchants of London presented a petition to Parliament asking to be heard by counsel against the British orders. The request was rejected by a vote of 99 to 66.³³

Petitions for the repeal of the orders continued. Nearly two hundred thousand English subjects protested against the "Orders of Council aimed at our Commerce." Many feared a revolt in the West Indies as well as disturbances in England.³⁴

As time passed, however, new outlets were found for manufactured goods, new sources of raw material obtained, violations of the embargo increased, and adjustments to new conditions occurred. Of course, allowance must always be made for the editorial views of newspapers. Keeping this in mind, we may quote from a letter written July 22 by a Manchester gentleman. It reads, in part: "Our trade is very good—we have as many orders as we can execute—of course the Weavers are fully employed and contented. . ."³⁵

Another Manchester letter dated October 4, 1808 referred to the fortunate effect of Napoleon's decrees in causing an assignment of cotton yarn consigned to Hamburg to be returned, and emphasized the beneficial effects of the good markets and high prices for manufactured goods in South America.³⁶ Brazilian cotton increased rapidly at the expense of the American.³⁷

Administration newspapers, to be sure, did not agree with the decreasing pressure of the embargo. Thus one quotes a

³³ *National Intelligencer*, April 25 and 29, 1808.

³⁴ *Wilmington Gazette*, June 7, 1808.

³⁵ *Boston Gazette*, September 22, 1808.

³⁶ *Ibid.*, December 19, 1808.

³⁷ *Ibid.*, December 22, 1808.

Liverpool letter dated January 1, 1809, which declared in part:

Your embargo is severely felt here. We shall be deprived of Bread during the present winter. All our flour has been consumed, and we have no hopes of receiving a supply. The people have attributed their distress to the British government. They are satisfied that the measures of your government are in support of your just rights, and there are hundreds here ready to emigrate to the United States if they possessed the means.³⁸

Again, we read the following item dated New York, April 18:

Our letters from Liverpool, to March 1st, state, that notwithstanding the supplies recently received, all articles of American produce bore very high prices. Some cottons were rated at a dollar and a quarter per lb. The common cottons at about 57 cents. Flour, March 1st, was at 12½ dollars the American barrel. There is no part in England in which the American embargo is so severely felt as in Liverpool.³⁹

The same paper, two days later, recounted the fulfilled prophecies with regard to the embargo's effect on England:

1. Diminished manufactures.
2. Lessened trade.
3. Decreased taxes from imports.
4. Lack of naval supplies.
5. Harmful effects on colonies.

The immediate result, the *Intelligencer* contended, was the demand for repeal. The Spanish Revolution prevented the full effects, it admitted, but nevertheless it declared: "We repeat it, then, the revocation of the British Orders is strictly attributable to the Embargo."⁴⁰

Though this view seems to be erroneous, an English opposition paper declared:

As far as Ministers have it remaining in their power, they have endeavored to retrace their steps towards America. Necessity has compelled them to attempt what pride absolutely forbid; and in order to preserve the shattered remains of our commerce with the United States, they have so new-modelled and altered the *Orders in Council*, as that the measure amounts to a revocation of them with regard to America; and we hope it has not been done too late to be attended with very beneficial consequence.⁴¹

³⁸ *Baltimore Evening Post*, January 30, 1809.

³⁹ *National Intelligencer*, April 24, 1809.

⁴⁰ *Ibid.*, April 26, 1809.

⁴¹ *Independent Whig*, May 7, 1809.

One point—the effect of the embargo on the West Indies—deserves more attention than is usually given to it. Earlier tables given in Chapter I show the prosperous commerce of the United States with those islands; later tables in Chapter IX will show how this trade was specifically affected. Here it merely remains to point out that since those islands were largely dependent upon the United States for foodstuffs, the embargo measure caused intense suffering by running prices to a famine height. Even the English West Indies suffered, for England had her hands full in Europe. English writers admitted this; hence they hailed with delight the renewed trade with Spain. One of these writers declared in October, 1808:

Letters from Jamaica and Demerara speak of the renewed and active intercourse between our settlements and those of Spain; and that the scarcity which began to be felt in some of our Islands in consequence of the embargo in America, had been removed, by prompt and abundant supplies from our new allies.⁴²

Naturally, far stronger claims concerning the effects of the embargo on England, France, and the West Indies were made in the debates in the United States Congress and in the administration newspapers than were likely to be admitted by European writers. Nevertheless, these statements were disputed by the enemies of the embargo. On April 14, 1808, D. R. Williams of South Carolina spoke in the House in favor of the retention of the embargo. He contended that the prices of England's imports, on cotton, tobacco, lumber, wheat, flour, rice, pot and pearl ashes, tar, pitch, flaxseed, hemp, and hides were raised, due to the embargo, for £9,615,161 worth of her imports came from the United States. The loss of the American cotton alone, he held, was a heavy blow to England. He maintained, moreover, that most of England's imported flour—ninety thousand barrels at Liverpool alone—came from the United States. He insisted also that Great Britain needed American shipping for her West India trade.⁴³ In addition, he argued that the embargo was impartial, and hence deserved

⁴² *Gentleman's Magazine: and Historical Chronicle*, Vol. 78, pp. 938, 939.

⁴³ *Annals of Congress*, Vol. 18, pp. 2130-2132. According to Sears, L. M., in an article previously quoted, the embargo diminished British corn, grain, and meal imports from £920,435 in 1807 to £146,119 in 1808 (*Quarterly Journal of Economics*, November, 1919, p. 105).

support on that ground, for it affected the French and Spanish West Indies. The French marine, he declared, was annihilated.

How, [he asked,] can she supply her West Indies with subsistence? How can France be supplied with the product of her West Indies, coffee and sugar, or with the product of the East? Nowhere, but through American bottoms; they must starve if you have resolution enough to hold on to the embargo.⁴⁴

On April 19, 1808, John Randolph of Roanoke, who was then opposed to the embargo, referred to the excessive smuggling carried on, whereby flour was supplied to the West Indies. "Every arrival from the West Indies," he insisted, "tells you of the cargoes of flour carried in, until it becomes a point of honor not to tell of one another."⁴⁵ On November 28, 1808, Edward St. Loe Livermore of Massachusetts, also an opponent of the embargo, declared, in referring to the effect on the West Indies, "With all the energy with which this wise measure has been armed by your countless embargo laws, I have not heard of a single poor West India negro being starved by it."⁴⁶

Two days later, November 30, R. M. Johnson of Kentucky, a friend of the embargo, declared that the people of the West Indies could not live without supplies from the United States, and that flour there had already sold for twenty to sixty dollars a barrel. Taking up the trade of the United States with Great Britain, he declared that the latter was deprived of four million pounds worth of tobacco, cotton, and the substantial of life. He insisted that we bought twelve million pounds worth of English manufactured goods and got money by the European trade to settle a balance of eight million pounds. This trade, he reiterated in common with the other friends of the embargo, was interrupted not by the embargo, but by the English orders in council which had given rise to it. He declared that when weavers and tailors, by hundreds and thousands, had assembled to protest against the orders in council in a peaceable sort of way "they were welcomed home to see their families starve by the sound of the cannon,

⁴⁴ *Annals of Congress*, Vol. 18, p. 2132.

⁴⁵ *Ibid.*, p. 2240.

⁴⁶ *Ibid.*, Vol. 19, p. 552.

and some of them killed." He tried to ridicule Canning's sarcastic comment on the embargo, "as a measure of inconvenient restriction upon the American citizens," by referring to the proclamation inviting and encouraging Americans to violate the embargo.⁴⁷ Said he:

The arms of His Britannic Majesty opened to receive smugglers: Come in, all ye heavy-laden with provisions, and I will give you rest! Whether you have papers or not, you shall not be molested. Thus, protection is offered to the smuggler, whilst the *bona fide* merchant must be driven from the ocean or fall a sacrifice to the Orders in Council.⁴⁸

In the Senate, on December 21, James Hillhouse of Connecticut, in opposing the embargo, cited numerous instances of violation. He quoted from a Captain Scovel, who arrived in New York on December 12 from St. Pierre, Martinique, and Antigua to show that vessels arrived there daily from the South, especially from Virginia. This smuggling, of course, helped supply the West Indies and kept the price of food down, but, nevertheless, while Captain Scovel was at Martinique, a Virginia pilot boat schooner arrived with 750 barrels of flour which were sold at thirty dollars a barrel. At Antigua in four days three vessels arrived from Virginia with full cargoes of flour. At St. Kitts he saw a Virginia schooner, which had partly unloaded a cargo of flour at Barbados, dispose of the remainder at a better price.⁴⁹

The papers of the period contained numerous references to prices of products in the West Indies. Administration newspapers generally referred to high prices; anti-administration papers passed by conditions, or at least did not emphasize them. The immediate effect, however, was to cause increases in all places wholly or partially dependent on American products. As soon as news of the embargo reached Havanna, flour rose from twelve to twenty-five dollars per barrel. At St.

⁴⁷ *Ibid.*, pp. 587, 588.

⁴⁸ *Ibid.*, p. 589.

⁴⁹ *Ibid.*, p. 286. According to John Howe's letter of June 7 to Sir George Prevost, flour had sold in French Guadeloupe at ninety dollars a barrel, and could with difficulty be procured at that price. This was, however, exceptional (*American Historical Review*, Vol. XVII, p. 90).

Croix it rose from six to fourteen dollars, "and other provisions in proportion."⁵⁰

It will, of course, be impossible to refer to the effect of the embargo on all the islands off the southeastern coast of the United States, but a few will be mentioned. It must be noted that at times prices were very high, but that a large import of food would cause reductions. Prices in Jamaica were high on March 30. Flour was then reported at twenty-five dollars per barrel in Kingston, forty at St. Croix, and thirty-two in Trinidad.⁵¹

The captain of the schooner *West Indian*, who arrived in Baltimore September 10 from Jamaica, declared that the embargo was severely felt there, that flour sold for forty-eight dollars per barrel, cod fish for thirty-nine per hundred weight, and every article of necessity at a proportionate price.⁵² Reports in the early winter of 1808, however, indicated that flour was retailing at eighteen dollars per barrel, the average price in the best of times, and that lumber was plentiful. The legislature was considering, with every prospect of passage, a bill laying an import duty on all American products. Concerning this the writer said:

Thus we are forced to the humiliating confession, that while our embargo is oppressive and ruinous to our own citizens, it has had the effect abroad of inducing those who formerly depended on us for numerous necessary supplies, to resort to other channels for support; and not only this, but to draw from them a law subjecting to heavy import duties, those very articles which we vainly imagined were indispensable to their existence.⁵³

At St. Croix flour was quoted at sixteen dollars per barrel, beef at thirteen, and pork at twenty-six early in the year.⁵⁴ Towards the close of March, however, flour had advanced to forty dollars per barrel and beef and pork were also high.⁵⁵ In May flour had fallen to thirty-six dollars a barrel. Corn

⁵⁰ Northampton *Republican Spy*, February 24, 1808.

⁵¹ *Müller's Weekly Messenger*, May 21, 1808.

⁵² *National Intelligencer*, September 14, 1808.

⁵³ *Relf's Philadelphia Gazette and Daily Advertiser*, December 19, 1808.

⁵⁴ *National Intelligencer*, February 22, 1808.

⁵⁵ *Müller's Weekly Messenger*, May 21, 1808.

meal was one hundred dollars a hogshead.⁵⁶ "We are at present well supplied with provisions," declared a St. Croix letter dated September 10, 1808.

There are from 6,000 to 7,000 bbls. of flour here—price \$18 to \$20, beef \$20, pork \$24, and no sales. We have also some lumber, but if the embargo continues until March, this article will be high, as our supplies from Canada and Nova Scotia are trifling—but as to provisions, we make out astonishingly well.⁵⁷

A letter from St. Croix, dated December 1, 1808 read, in part:

We are all in anxiety here for the event of your embargo. If continued, it will be ruinous to this, as well as to every other island depending on you for lumber. One-third of the estates have not materials in the lumber way. I am now delivering pitch pine scantling to be converted into staves. I hope soon to see the American colours again in our harbour. Prices quoted, viz:

Flour per cargo, 21 to 22 dollars, by retail 25 to 30.

Prime Beef, 24 dollars.

Pork 36 to 40.

Candles, 8 bits or 64 cents per lb.⁵⁸

An unsigned letter from Havana, dated August 23, stated that the people could get all necessary provisions from Vera Cruz, Campeachy, Spain, and England, and intimated that the Cuban ports would probably be forever closed against the United States if the embargo were not repealed within two months.⁵⁹ But a Charleston item dated October 14 read: "Flour is very scarce at Havanna, there being no recent arrivals from Vera Cruz. A brig from Philadelphia for New Orleans, was sent into Havanna about three weeks since, with 300 barrels of flour, which sold for 55 dollars per barrel."⁶⁰

Early in the fall of 1808 flour at Guadaloupe was said to be down to eighteen dollars a barrel because of arrivals from France. Other provisions, nevertheless, remained high.⁶¹ On January 13, 1809 flour was quoted at sixty dollars per

⁵⁶ *Wilmington Gazette*, June 7, 1808.

⁵⁷ *United States Gazette*, October 8, 1808.

⁵⁸ *Richmond Enquirer*, January 31, 1809.

⁵⁹ *Boston Gazette*, September 22, 1808.

⁶⁰ *National Intelligencer*, October 28, 1808.

⁶¹ *Ibid.*, November 4, 1808.

barrel in Surinam, herrings at twenty, salmon at forty-eight, mackerel at six, salt at sixteen, oil at three dollars per gallon, tobacco at eighty cents per pound, rice at twenty-four, cod fish at twenty, pitch and tar as scarce, and lumber as unobtainable. The products of the island were quoted: molasses sixteen cents, sugar five dollars per hundred weight, cotton sixty-two cents per pound, coffee at twenty-eight and cocoa as scarce.⁶²

A letter dated Bermuda, March 3, 1809, declared that the embargo was severely felt in that island, that many people were without bread, that corn had not been on sale for a month or six weeks, and that flour was very scarce and selling at over thirty dollars per barrel.⁶³

A letter from Barbados, dated June 9, declared in part:

Since our last flour has declined in price, in consequence of the importation by the fleet being very considerable.

We have plenty of salted provisions from Ireland, and cheap, and an overstock of both dry and pickled fish from Halifax and Newfoundland.

You have calculated erroneously in America, if you expect to starve the British Island by your Embargo. We are beginning to find that we are perfectly independent of your supplies; and we have reason to think that the only great sufferers by this would-be starving system, will be yourselves.⁶⁴

Another letter from the Barbados, dated October 22, declared that there was a glut of provisions and flour in those islands. The writer insisted that there were seven thousand barrels of flour in the Barbados market, that corn was selling at \$1.50 and fish at \$4.50, and that the price of West India produce was rising.⁶⁵

The effect of the embargo on the territory adjoining the United States is worthy of notice. At first the effect on Florida was decidedly harmful. Thus a letter from a Georgia gentleman dated March 14, 1808, read:

"The embargo has had its effect on the citizens of Mobile and Pensacola. They are almost in a state of starvation. Corn is 4 dollars a bushel; bacon 50 cents per lb.; lard 1 dollar

⁶² *Paulson's American Daily Advertiser*, February 22, 1809.

⁶³ *National Intelligencer*, March 3, 1809.

⁶⁴ *Boston Repertory*, July 12, 1809.

⁶⁵ *New York Herald*, December 17, 1808.

per quart; fowls 9 dollars per doz. . .⁶⁶ With the coming of the new crops, supplies from the Spanish territory, and increased smuggling, however, conditions in the Floridas improved.

From the outset, apparently, Canada prospered at the expense of the United States. A letter from Quebec, speaking of the beneficial effects of the embargo concluded: "God grant that your Embargo Law may continue forever."⁶⁷ "Your Embargo may ruin your own Merchants and many others," wrote a Halifax gentleman under date of May 25, "but if it is continued, will make the fortunes of the traders in this province. . ."⁶⁸

"In proportion as the Northern (or Commercial) States suffer by Mr. Jefferson's Embargo," declared the same paper a little later, "we see *Nova Scotia* and *Canada* rising into wealth, strength and importance;—and every paper from the British provinces exhibits numerous clearances for the *West Indies* and *Europe*, loaded with provisions and lumber of all kinds. Before the *Embargo* was laid we were the exclusive carriers of those articles;—and it would then have been considered almost as great a curiosity to see clearances of the above kind, from British ports, as it would now be to see whales spouting in Lake Champlain. . ."⁶⁹

Canadian merchants also profited by the handling of goods intended for the United States. According to the *New York Evening Post* there were six arrivals at Quebec on June 12 from London and Liverpool. These vessels had full cargoes of dry goods. "Before the embargo," declared the writer, "such a thing was hardly known. There is little doubt that the greatest part of these goods will find their way into the United States without adding a cent to our revenue."⁷⁰

An article in a Boston paper referred to the prosperity of Halifax and the reported talk of sending Jefferson fifty or sixty barrels of flour with the request that he remain firm in the embargo.⁷¹ A Philadelphia paper declared that the owners of vessels in Halifax and St. John were preparing a valuable piece of plate to present to President Jefferson as soon as his

⁶⁶ *Connecticut Courant*, May 4, 1808.

⁶⁷ *Philadelphia Gazette and Daily Advertiser*, May 12, 1808.

⁶⁸ *Boston Gazette*, June 16, 1808.

⁶⁹ *Ibid.*, June 27, 1808.

⁷⁰ *United States Gazette*, July 7, 1808.

⁷¹ *Reperctory*, June 24, 1808.

term had expired in acknowledgment of the help they had received from the American embargo.⁷²

A small wave of emigration set in from the northern states to Canada. This wave passed through Buffalo during June, July, and August. The people, hoping to escape the embargo calamities, went by families in wagons and carts.⁷³ A letter from Upper Canada, dated February 1, referred to the larger number of emigrants, especially from Pennsylvania.⁷⁴

Immense quantities of produce were shipped from Quebec during July and August. Over one hundred and fifty vessels which had entered the St. Lawrence were soon to be dispatched with full cargoes. The Canadian merchants were beginning to believe that Canada would soon be a powerful rival of the United States.⁷⁵

The papers of the period contain frequent reference to money leaving the United States by the hundred thousand. Said a writer from Quebec, November 28: "The immense sums of money brought into circulation, and the number of artificers, tradesmen and labourers employed, in the various works of utility and ornament, at present going forward must be attended with incalculable benefit to the province."⁷⁶

According to report, one observer declared, as quoted under a Boston date of January 14, 1809, that on his return from Canada, just accomplished, he had counted seven hundred sleighs between Montreal and Middlebury, in Vermont. Those going to Canada were loaded with provisions, potash, etc. "We hope those returning," said the article, "were bringing back a part of the Five Million of dollars, which have found their way out of the United States since our wretched Embargo system was adopted."⁷⁷

The embargo stimulated the planting of wheat in Canada, led to the erection of potash works in large number, and encouraged immigration. "Many more United States citizens

⁷² *United States Gazette*, December 8, 1808.

⁷³ *New England Palladium*, September 13, 1808.

⁷⁴ *Paulson's American Daily Advertiser*, February 27, 1809.

⁷⁵ *United States Gazette*, September 14, 1808.

⁷⁶ *New England Palladium*, December 23, 1808.

⁷⁷ *Paulson's American Daily Advertiser*, January 20, 1809.

would come," said a Canadian letter of February 1, 1909, "but are unwilling to dispose of their property at the reduced price occasioned by the Embargo; and here we can perceive an advance and an eagerness to purchase."⁷⁸

Only one other article on Canadian prosperity will be quoted. It was dated Montreal, February 5, and addressed to a citizen of Providence. The writer said:

On my arrival here on the 26th of January, I was credibly informed that a few days before, more than eight hundred loaded sleighs crossed Lake Champlain in one day, destined from the United States for this flourishing place. On market days, which are Thursday and Saturday, it is very difficult to pass the streets near the market, on account of the prodigious number of sleighs, filled with provisions, which crowd every space and avenue. Provisions, in general, are very cheap; a good turkey may be purchased for 38 cents, a pair of fat fowls for 34 cents, large white hares for 8 and 10 cents, a good mutton, of excellent flavor, for 1 dollar and 50 cents, beef for 8 cents per lb., butter for 12 cents per lb., loaf sugar for 17 cents per lb., and a variety of other articles equally cheap. Sleighs are coming in daily, and every house is so thronged with Americans, and others, who are continually coming in, that genteel boarding is very dear.⁷⁹

It has been found impracticable in a work of this scope to attempt a detailed discussion of the economic effects of the embargo in all the countries of western Europe and in all the West Indies, but a careful examination of the newspapers listed in the bibliography makes it appear obvious that the price of American goods and goods of which the United States was the principal carrier advanced to some extent. This increase naturally depended to a large extent on the scarcity of the goods and the demand for them. Farmers in Europe received a higher price for their products; hence the embargo did not injure them. Many European merchants found new markets for their products and hence were not hurt.

The manufacturers and factory workers, however, suffered severely, for part of their market was shut off and, also, and more important, there was a decided decrease in the amount of available raw cotton. This decrease caused cotton mills to be closed down, threw men out of work, and increased the num-

⁷⁸ *Ibid.*, February 27, 1809.

⁷⁹ *National Intelligencer*, March 22, 1809.

ber of people wholly or partially dependent on charity for support. Consumers least able to meet the higher prices thus had to bear the brunt of the embargo. With regard to the foreign dependencies of the European nations, with few exceptions, the most notable being Canada, there was decided suffering due to high prices resulting from the scarcity of American goods and foodstuffs. This was especially true of the West Indies. Naturally, however, the European nations cared little for conditions in their distant possessions when they were locked in a life and death struggle. The embargo as an economic means of forcing the European nations to rescind their obnoxious orders and decrees was consequently a failure.

CHAPTER V

ATTITUDE OF THE COUNTRY TOWARDS THE EMBARGO

This chapter, with the following one, will discuss in detail the growing opposition of the country to the embargo from its passage in 1807 till its repeal in 1809.

Probably the most powerful molders of public opinion in the embargo period was, as it is now, the press. Many of the most influential papers were opposed to the embargo; hence they aided in arousing sentiment against it. Four of these papers will be quoted at this time. A Boston paper contained a bitter attack which read in part:

Our government seems now to have arrived to the ne plus ultra of its defensive measures; an Embargo! Blessed Administration. Deane was right, though we thought he insulted the country, when he said, that like our own mud tortoise we must draw ourselves into our shell, and there lie. Yes—the Philistines are upon us; France frowns, but we must not be trusted to our yankee indignation; there must be no collision with her; we must stay at home and starve, lest from the treatment we should receive by venturing abroad, we should be compelled to resist her.¹

The same article predicted low prices for agriculture, declared that Jefferson had stated that the embargo would ruin only two hundred and fifty thousand merchants, and remarked: "We lament most sincerely, that in this country, where good living is so cheap, good sense is so dear."²

Another Boston paper published, with approval, a letter beginning:

The act laying the Embargo being the law of the land, it becomes the duty of every loyal citizen to obey all its provisions. But at the same time, it is the right and the duty of every American Citizen to point out the impolicy of the measure, in order that those who have made the Law may be convinced of its injustice, and repeal it. . . .³

¹ *Register*, December 26, 1807.

² *Ibid.*, December 26, 1807.

³ *Chathamian*, *Constitution*, January 6, 1808.

A New York paper contended, about a month after the passage of the embargo, that the states had the same right to resist oppression as the colonies had enjoyed.⁴

Two days later a Philadelphia paper published the following item on the embargo:

“What a necromantic word this is,
With what a shock it comes, and what a quiz:
Divide it into three, and it will shew,
When read backwards, the mandate of that law
Go Bar 'Em.”⁵

The pressure of the embargo, of course, was first felt in the commercial cities. Sailors were deprived of their occupations. Many of them lived from hand to mouth at best; hence if they could not get other work, they had to beg or starve. Relief was not adequate for the numerous applicants.

Naturally these men banded together more or less in their attempts to get succor. Thus, on January 7, 1808, in Boston eighty to one hundred sailors carrying a flag at half mast marched with martial music to the governor's house and demanded work or bread. After Governor James Sullivan had talked to them awhile, however, they dispersed quietly.⁶

In Philadelphia, on January 16, 1808, a crowd of discontented, hungry, and penniless sailors met together, and marched to the City Hall under the flag. There they made their appeal to the mayor, Robert Wharton, and asked what they should do. He replied that they “constituted an unlawful assembly” and ordered them to lower the flag under whose folds they had marched through the streets. After he had given this order, he expressed pity for their condition, said that it was not now in his power to give them aid, that the government thought that the embargo was necessary, and that they ought to separate quietly. He added, however, that the Chamber of Commerce had the matter of relief under consideration. T. R. Cope, one of the promoters of the scheme, nevertheless, failed in his effort to obtain an appropriation

⁴ *New York Herald*, January 28, 1808.

⁵ *Paulson's American Daily Advertiser*, January 30, 1808.

⁶ Amory, T. C., *Life of James Sullivan with Selections from his Writings*, Vol. II, pp. 259-260.

of five thousand dollars for their relief. For a while the sailors were cared for by private subscription, but by April these subscriptions had ceased. The sailors, in large part, after further appeals, went to other places, many to Halifax, Nova Scotia, where they entered the British service.⁷

Philadelphia's interests were rapidly turning from commerce to manufacturing; hence it must not be supposed that the city was entirely opposed to the embargo. The measure was lauded as one which would encourage manufactures and foster independence. On November 17, 1808, the manufacturers and mechanics held a dinner in the room formerly occupied by the United States Senate to celebrate the improved prospects of industry. Colonel Humphreys of Connecticut was present. John Dorsey, the president of the festival, appeared in an American broadcloth suit. On January 23, 1809, after the embargo had been in effect over a year, the friends of the act held a meeting in the State House yard in its praise.

Eight days later, the opponents of the measure held a meeting at the same place. They characterized the continuance of the embargo laws as "unjust, impolitic, and oppressive" on the people of the United States, and the measure itself as "weak, inefficient, and useless" as a method of coercion. The meeting was not a peaceable one, for various attempts were made to break it up. Several hundred Democrats with drums beating and colors flying tried to storm the platform. One thousand sailors drove them back. The invaders, however, stood as near the platform as they were allowed to and by beating the drums and hissing, tried to keep the resolutions from being heard. Seven hundred dollars were, nevertheless, raised for the relief of distressed seamen.

Throughout the period the various factions quarreled, but the Democratic legislature of Pennsylvania supported Congress. One resolution of the legislature went further than Congress had gone, for it recommended that members of the next legis-

⁷ Scharf, J. T. and Westcott, T., *History of Philadelphia*, Vol. I, p. 530. See *Paulson's American Daily Advertiser*, January 18, 1808, for a brief account of the mayor's speech which began, "I pity you from the bottom of my heart," and closed, "May God bless you all."

lature "appear in clothes of domestic manufacture."⁸ A similar resolution in the national House of Representatives, April 25, 1808, raised such protests that it was quickly withdrawn.⁹

New York suffered equally with Boston from the embargo, but her opposition was not carried so far. Federalist newspapers, of course, denounced the measure, and numerous meetings early protested against it. One of the late protests came from a general meeting of Federalist young men called on Saturday, November 12, 1808. The following resolutions were unanimously passed:

Resolved, That the embargo is an oppressive and ruinous measure, operating only with destructive energy on ourselves, while it has rendered us objects of the contempt and ridicule of that nation against which it was invidiously directed, but whose interest it now particularly subverses.

Resolved, That its continuance, in the present state of the world, will tend to the complete prostration of the agricultural and commercial interests of our country.

Resolved, That dreading the consequences of seeking redress of our grievances in any other than a constitutional way, we pledge ourselves to each other and to our suffering fellow-citizens, to use all our zeal, influence, and activity, to promote a change of men, by which alone we can expect a change of measures.¹⁰

Especially did the embargo harm the poor in New York and other cities. Naturally those injured, for the most part, hated the measure. An interesting and pathetic item from a New York country newspaper, written thirteen months after the passage of the measure, follows:

Distress of the poor. No person possessed of the common feelings of humanity can read the account given of the suffering poor, in the city of New York, without being sensibly affected. Many hundreds of honest, industrious citizens have been flung out of employment by the embargo and have no honest means to which they can resort to support themselves and families. To procure bread for their children, they have sold their furniture and clothing, until they are left almost naked and destitute. Never (says the writer of an address to the citizens) did our city contain so many objects of misery!

The exertions which have, and are still making by the humane and

⁸ Scharf, J. T. and Westcott, T., *History of Philadelphia*, Vol. I, pp. 531-539.

⁹ *Annals of Congress*, Vol. 18, pp. 2283, 2284.

¹⁰ *Scott's Magazine; Edinburgh Literary Miscellany*, January, 1809, Vol. 71, p. 55.

benevolent to seek out objects of distress and afford them relief, will draw upon them the blessings of many.¹¹

During the operation of the embargo there was more or less opposition between the North and South growing out of embargo differences. A letter dated Salem, June 3, 1808, took up the possibility of a non-consumption agreement of the suffering commercial states that henceforth during the operation of the embargo they "refrain from the use and consumption of any flour, the produce of any state south of Pennsylvania and Delaware." "This would indeed be an unsocial measure," the writer admitted, "and we hope it will not be a necessary one."¹²

Apparently there was some talk in the South of taxing northern products. Thus an item in a Boston paper read:

The Baltimore Whig says the Southern States could make us beggars by taxing our produce. It is not very magnanimous thus to remind us, suffering as we are what party controls the majority in Congress. But are we to consider it as a *favour* that our produce is not taxed exclusively? Are we not at all indebted to the positive provisions of the Constitution? To be sure the embargo regulations as to our *coasting* trade operate as a *tax*; but their *constitutionality* is doubted by many.¹³

In various southern points there was discontent with the embargo. On January 3, 1808, John R. Donnell wrote to A. D. Murphey from Newbern, North Carolina: "The merchants of this town appear a good deal ruffled at the news of an Embargo. We are in doubt concerning the cause of this Embargo. It is the opinion of many that we shall have a war with France; which opinion is corroborated by the declaration of Bonaparte that there shall be no neutrals."¹⁴

John Lambert, who wrote such vivid pictures of the effect of the embargo on New York City, also described conditions in Charleston, South Carolina. According to him, there were over a thousand people, who, deprived of their work by the embargo, had become very riotous. Unable to pay for their room and board, the landlords had turned them out after their

¹¹ *Catskill American Eagle*, February 1, 1809.

¹² *Boston Gazette*, June 6, 1808.

¹³ *New England Palladium*, December 2, 1808.

¹⁴ *Publication of the North Carolina Historical Commission*, "The Papers of Archibald D. Murphy," Vol. 1, p. 17.

money was gone. For several nights they paraded the streets in large bodies. Some robberies were committed and a few negroes were murdered. In spite of a strengthened city guard it was so dangerous to go out at night that the corporation finally published a proclamation forbidding any sailor to be out of his lodging house after seven o'clock at night, and advertised that any sailor who was out of work might go on board the sloop *Hornet* and the United States gunboats, where they would receive food and be at liberty to leave when they chose. Only sixteen went, and several of those soon returned because of floggings they had received. Soon after this, the English consul advertised that British seamen might have a free passage home in British ships bound for Europe. Over four hundred of the rioting seamen sailed for Europe.¹⁵

Newspapers, of course, were filled with references to the sufferings of the sailors, and especially to their enforced exile. Two sailors met one morning on a business street in Hartford. "Holla! messmate," said one, "where are you bound?" "Bound to Halifax by the pipers," replied the other, "Which way are you steering?" "By the powers of Moll Kelly," came the answer, "I am steering the same course, for there's no standing this dambargo any longer."¹⁶

A Savannah item of February 2, 1808, declared that the City Council and Chamber of Commerce, meeting on January 30, had taken into consideration the situation of sailors "thrown out of employ by the Embargo." The decision was to send the northern seamen home free and to support the southern seamen, who, however, were to be compelled to work.¹⁷

Towards the close of March, the citizens of Norfolk were called together by the mayor to consider measures necessary in order to relieve distressed sailors in that place.¹⁸

Three months of the embargo deprived 8712 sailors of po-

¹⁵ Lambert, John, *Travels Through Canada and the United States of North America in the Years 1806, 1807 and 1808*, Vol. II, p. 162.

¹⁶ *Connecticut Courant*, January 13, 1808.

¹⁷ *Philadelphia Gazette and Daily Advertiser*, February 19, 1808.

¹⁸ *Paulson's American Daily Advertiser*, March 25, 1808.

sitions in foreign trade and rendered idle half of those formerly employed in the coasting trade.¹⁹

Of course opposition newspapers capitalized as much as possible the harmful effects to commerce through exaggerating those effects and also the importance of trade. An interesting item in a Massachusetts paper of April 11, 1808, read:

Farmers, Merchants, Mechanics, Seamen, Widows, Orphans. What has hitherto supported our political family?

Commerce!

What has afforded the means of reducing our National Debt, and paying the Interest on our Loans?

Commerce!

What has given Wealth and Consequence to the United States, but

Commerce!

When this living spring, this redundant source of public prosperity and private happiness is wantonly cut off—When the Farmer can no longer sell his produce—When the merchant is compelled to abandon his traffic—When the Seaman is driven from the face of the Ocean, and the Mechanic is deprived of his accustomed occupation—What will be the substitute, but

Taxes!

Poverty!

Imprisonment!

Civil Discord!

Ruin!²⁰

Grass actually began to grow on busy river and ocean wharves,²¹ but the greatest loss was the continued emigration of the sailors. By the middle of the summer few were left in Charleston, South Carolina.²² A long poem of thirty stanzas, modelled after Gray's famous elegy, appeared in the *Boston Gazette* of July 10, 1808. Commerce was characterized as dead and the sailors fleeing. A Quebec item of June 3 read in part: "Between forty and fifty able bodied American seamen lately arrived here in vessels from Philadelphia."²³ A Philadelphia paper also referred to the numerous sailors who were leaving the United States for Halifax and elsewhere.²⁴

¹⁹ *Ibid.*, April 12, 1808.

²⁰ *Boston Gazette*, April 11, 1808.

²¹ *Connecticut Courant*, May 25, 1808.

²² *New England Palladium*, June 14, 1808.

²³ *Boston Gazette*, July 10, 1808.

²⁴ *Paulson's American Daily Advertiser*, July 19, 1808.

One paper, with considerable exaggeration, declared that the sailors were forced to seek employment of Great Britain and that in all probability there were not one thousand seamen left in the United States.²⁵ Another New England paper also lamented the hundreds of sailors forced by the embargo to take service under a foreign flag.²⁶

Administration papers, on the other hand, tried to point out beneficial effects of the embargo. Thus, the *Baltimore Evening Post* of March 24 in answer to the *Federal Republican* said:

We say that the embargo has preserved our seamen; and that no man can, with justice, deny it. Hundreds of seamen have various trades; they are at work at these, and cannot in a moment abandon them, admitting they feel perfectly free to risk themselves among the harpies of Europe.²⁷

With fish well nigh unsalable and a large supply on hand, fishermen naturally suffered as did the sailors. Prices went down and the fish deteriorated. An article of interest read:

Embargoed Fish.—It is ascertained there are at this moment in Boston, (says the *Centinel* of Saturday [April 21]) Two Hundred Thousand quintals of Fish—which must either be exported or destroyed before the hot weather sets in or the health of the town will be exposed. This quantity of fish before the embargo laws passed, was worth at \$3, per quintal. Thus, if the embargo is not speedily taken off, there will be a dead loss to the public of \$600,000.²⁸

Another paper reported a few months later that fish which had cost \$4400 before the embargo sold for six hundred dollars after the embargo.²⁹

As might have been expected, the hard times occasioned by the embargo led to an increase in crime especially, in the North. Thus, because of several attempted robberies in Philadelphia the citizens established paroles.³⁰ A letter from Augusta, Maine, dated March 19, referred to the burning of the gaol and a large tavern house nearby, and the attempt to fire the courthouse on the evening of the sixteenth. "The turbulence of the people in this quarter," added the letter, "is in a great meas-

²⁵ *Massachusetts Spy or Worcester Gazette*, September 28, 1808.

²⁶ *Boston Gazette*, November 21, 1808.

²⁷ *National Intelligencer*, April 10, 1809.

²⁸ *Philadelphia Gazette and Daily Advertiser*, April 8, 1808.

²⁹ *New England Palladium*, September 30, 1808.

³⁰ *Ibid.*, January 26, 1808.

ure engendered by the distressing effects of the Embargo; idleness and poverty inducing to disorder."³¹

Again, murder was sometimes attributed to the embargo. A man named James Clark was killed "by the *Jefferson and Embargo* mob."³² Robberies and violence of all kinds continued to be attributed to the embargo.³³ Tar and feathers were liberally applied to one man who opposed the Republicans.³⁴

Another paper declared that the embargo had produced an immense influx of counterfeit bank bills in New England and innumerable footpads, burglars, and midnight incendiaries in New York.³⁵

Once in a while, people even attacked prisons and released men held there for the violation of the embargo laws. An Augusta paper reported that a number of women at Castine, Maine, effected the release of several prisoners.³⁶

Naturally, petitions by the hundreds were sent to the various members of Congress by their constituents. They came in greatest number from New England and New York, but practically every state in the union was represented. All wanted exemption from the operation of the embargo or the repeal of the embargo laws. The arguments of these petitions, particularly those of the fishermen, have already been referred to. Instances of the use of petition, however, will be cited again. On January 4, 1808, Mr. Porter of Pennsylvania presented a petition from certain Philadelphia traders urging that vessels loaded and cleared before receiving notice of the passage of the embargo act be permitted to sail for the places to which they had cleared, or that Congress grant them such other relief as might be deemed proper.³⁷ On March 11, Mr. Mumford presented a memorial from some merchants of New York City, asking for permission to export a certain quantity of flaxseed

³¹ Boston *Columbian Centinel*, March 30, 1808.

³² *Ibid.*, May 4, 1808; *Connecticut Courant*, May 11, 1808.

³³ *New England Palladium*, September 13, 1808.

³⁴ *Ibid.*, October 28, 1808.

³⁵ *Massachusetts Spy or Worcester Gazette*, December 28, 1808.

³⁶ *Paulson's American Daily Advertiser*, December 30, 1808.

³⁷ *House Journal*, 10th Session, p. 106.

to Ireland.³⁸ On April 5, three petitions from Massachusetts were presented asking that fish be exempt from the embargo.³⁹ On April 11, Josiah Quincy brought in four others to a like effect;⁴⁰ on April 16 another;⁴¹ and on April 25 still another.⁴²

Newspapers, of course, fanned the flame for repeal by the circulation of inflammatory articles or of clever and catchy questions and comparisons. Three will be noted. The following catechism appeared in a Boston paper in March, 1808:

- q. Why is the Embargo like sickness?
- a. Because it *weakens* us.
- q. Why is it like lameness?
- a. Because we can't go.
- q. How is it like fire?
- a. Because it consumes our substance.
- q. How is it like a whirlwind?
- a. Because we can't tell certainly, where it came from, or where it is going; it *knocks down* some, *breaks* others, and *turns* everything *topsy turvy*.
- q. How is it like the hydrophobia?
- a. Because it makes us *dread the water*, and bark like the dog that bit us.
- q. How is it like *broken bones*?
- a. Because it stops us from going at present, and leaves us cripples hereafter.
- q. How is it like *madness*?
- a. Because we can't *reason* with it.
- q. If we spell it backwards, what does it say?
- a. O Grab Me.⁴³

A writer signing himself "Ethan Allen" in a Connecticut paper propounded the following item, widely copied:

A PIG CASE

Under the supplemental Embargo Law humbly submitted to his honor the President of the United States.

This *fag-end* of the Embargo goes to prohibit the farmers of Vermont and New Hampshire from driving their swine into Canada for sale. Now suppose a man should drive a herd of hogs close up to the line of the

³⁸ *Ibid.*, p. 221.

³⁹ *Ibid.*, p. 253.

⁴⁰ *Ibid.*, p. 263.

⁴¹ *Ibid.*, p. 270.

⁴² *Ibid.*, p. 307.

⁴³ *Boston Gazette*, March 10, 1808.

United States, *but not over*, and a Canadian should *accidentally* make his appearance just within the boundary of that British colony with a basket of corn in his hand, and should cry *Pig—Pig—Pig*—and the whole drove should run over the line into Canada and voluntarily place themselves under the government of the tyrant of the ocean. Would it or would it not be a breach of the *Embargo law*; and if so, who should be punished, the farmer who drove his hogs so near the despotism, the swine who, regardless of the blessing of a free country, thus ran over the line; or the Canadian who tempted them to this anti-republican act!⁴⁴

Another catechism coming out a few months later and ascribed to the Brattleborough *Reporter* read:

Embargo!

Why was the *Embargo* intended by Mr. Jefferson to be a circle?

Because it was to have no end.

Why is the *Embargo* like a poor portrait painter?

Because it makes a great many bad looking, long faces.

Why is the *Embargo* like the fifth wheel of a wagon?

Because it is of no manner of use.

Why is the *Embargo* like the jaw bone of an ass?

Because it has ruined thousands.

Why is the *Embargo* like couching for the cataract?

Because it makes those, who were before politically blind, see clearly.

Why is the *Embargo* like an incurable sore finger?

Because it ought to be taken off.

Why is the *Embargo* like good strong coffee?

Because Bonaparte is remarkably fond of it.

Why is the *Embargo* like red wine when we have not white?

Because it makes us stick to *Port*.

Why is the *Embargo* like the sting of ingratitude?

Because it is painful to bear.

Lastly, Why is the *Embargo* like French influence in our cabinet?

Because unless speedily removed, it will be the ruin of America.⁴⁵

When Congress met again in November, the petitions had changed to direct requests for repeal of the embargo laws. On November 16, Mr. Ver Plank of New York brought in a petition from Dutchess County asking for repeal.⁴⁶ On the next day Mr. Livermore of Massachusetts presented several petitions to that effect from Newburyport and other towns.⁴⁷ On November 21, Mr. Quincy presented one from Topham, and Mr.

⁴⁴ *Massachusetts Spy, or Worcester Gazette*, April 13, 1808.

⁴⁵ *Ibid.*, September 21, 1808.

⁴⁶ *House Journal*, 10th Session, 353.

⁴⁷ *Ibid.*, p. 355.

Dana of Connecticut one from Woodbridge.⁴⁸ Four days later, November 25, Mr. Gardenier of New York presented petitions from some of the electors and inhabitants of Ontario County asking for the immediate repeal of the embargo.⁴⁹ On November 28, and again on December 2, he brought in similar petitions.⁵⁰ On December 20, Mr. Holland of North Carolina presented a petition from Lincoln asking for the repeal of the embargo; on January 9, 1809, he presented two other petitions to a like effect.⁵¹ On January 27, Mr. Findlay of Pennsylvania brought in a petition from Westmoreland County, for the repeal of the embargo.⁵² Four days later, January 31, Mr. Mumford brought in petitions from the first, second, and fifth wards of New York City, for the repeal of the embargo.⁵³ About two weeks later, February 13, Mr. Milnor of Pennsylvania brought in similar petitions from the city and county of Philadelphia.⁵⁴

Examples of petitions, a constitutional method of obtaining relief, might be multiplied indefinitely, but those cited above are sufficient to show the general character and the quarter from which they came. It now remains to notice a few special petitions. On January 9, 1809, Mr. Lewis of Virginia presented a petition from Marsham Waring and other inhabitants of the District of Columbia. This petition urged that all executions which may have been or might be awarded against the petitioners and other inhabitants of the district might "be stayed during the continuance of the embargo and non-intercourse laws of the United States," or that such other relief as "the wisdom and justice of Congress" might deem meet be granted.⁵⁵

Frequently memorials came direct to the president. One of the most interesting of these was that of St. Albans, Vermont.

⁴⁸ *Ibid.*, pp. 360, 361.

⁴⁹ *Ibid.*, p. 365.

⁵⁰ *Ibid.*, pp. 367, 372.

⁵¹ *Ibid.*, pp. 410, 455.

⁵² *Ibid.*, p. 495.

⁵³ *Ibid.*, p. 501.

⁵⁴ *Ibid.*, p. 521.

⁵⁵ *Ibid.*, p. 456.

Some direct quotations from it will be given. After protesting against the embargo, the petition declared:

That in an agricultural state like this, the part of the productions which the inhabitants do not want for their own consumption is generally rendered valuable only by the commerce of the maritime states; that a people situated as are your memorialists, at so great a distance from the Atlantic seaports, must at all times experience many and great commercial disadvantages; that to surmount these, and many other difficulties incident to their local situation your memorialists * * * have depended alone on their agricultural pursuits, on the manufacture of pot and pearl ashes, and the timber of their forests; that by the persevering toil and unceasing labour of hardy and independent freemen, the gloomy wilderness, which * * * but a few years since was occupied only by the savage and brute had given place to agricultural enterprise, . . . from which the cultivators of soil began to enjoy the good of their labour.⁵⁶

The memorial then referred to the act of March 12, 1808, which cut off the exportation of agricultural produce, pot and pearl ashes, lumber, etc. to Canada and thereby caused great suffering. It declared:

After an impartial investigation of the subject, so far as they are capable your memorialists cannot conceive how the object of the general embargo, which was the protection of our vessels, our seamen, and merchandise on the high seas, can be any way connected with the provisions of the law of March 12th, or how our vessels, our seamen, and our merchandise on the high seas can be exposed to any danger from the belligerent powers of Europe, in consequence of commercial intercourse, either by land or water, between the citizens of Vermont and Lower Canada, and places in like situations; nor can they be taught, that a law which forbids the exchange of such commodities as they do not want, for the conveniences and necessities of life, and especially for the sinews of war, the gold and silver of that nation, whose injury, it seems, is contemplated by such law, can in any possible degree tend to the welfare of the union.⁵⁷

The memorial next expressed surprise at the president's proclamation of April 19, which had called upon the inhabitants to quit forming insurrections against the United States, to stop opposing and obstructing the execution of the United States laws, to return to their homes peaceably, and to aid all authorities and other persons, civil or military, in the suppression of law violations, by force of arms or otherwise.⁵⁸ The

⁵⁶ *American Register*, Vol. III, pp. 450, 451.

⁵⁷ *Ibid.*, Vol. III, pp. 451, 452.

⁵⁸ *American State Papers, Class X, Miscellaneous*, Vol. I, p. 940.

petition insisted that the conditions had been misrepresented, and "that if individuals, finding themselves and their families on the verge of ruin and wretchedness, have attempted to evade the embargo restrictions, and have actually accomplished their purpose, this could never furnish a cause for proclaiming to the world that insurrection and rebellion were chargeable on the good people of this district; and with confidence your memorialists declare their belief, that nothing more than this had taken place."⁵⁹

The petition then spoke of the degradation caused by a guard, of the patriotism shown by Vermont during and after the Revolutionary War, and closed as follows:

In fine, since Congress have confided to the wisdom and prudence of the executive of the United States, a discretionary power to remove the restrictions of which your memorialists complain, they present to him their ardent request that the operation of the aforementioned law of March 12th may be immediately discontinued, pursuant to the power in him reposed. And your memorialists, as in duty bound, will ever pray.⁶⁰

Other petitions were directed to the president in an effort to induce him to exercise the discretionary power of repeal granted him by the act of April 22. Some of his friends believed that the main object of the petitioners was to worry Jefferson, but the economic pressure of the embargo was growing stronger. On August 19, 1808, Madison wrote to Gallatin:

I have just received a petition to the President from merchants in Boston for a removal of the embargo, or a call of Congress for the purpose; and I see another is on foot, founded on the additional market opened in Spain and expected in Portugal. Such are the malignant manoeuvres for vexing the Executive. No efforts of the President could now assemble Congress ten days sooner than the time to which they are adjourned. And to acknowledge the new and local power set up in Spain, and thereby take part in the war against the others, would be an infatuation which the most stupid or the most wicked only could suggest.⁶¹

One method of lightening the operation of the embargo was the granting of permits for the importation of foodstuffs into one state from another. This power was turned over to the governors of various states or territories as Massachusetts,

⁵⁹ *American Register*, Vol. III, p. 452.

⁶⁰ *Ibid.*, Vol. III, p. 453.

⁶¹ *Writings of Albert Gallatin*, Vol. I, p. 409.

New Hampshire, South Carolina, Georgia, and Orleans, but was most widely used by Governor Sullivan of Massachusetts. Naturally, this action aroused considerable criticism, especially in New England. A Boston paper said:

"People of Massachusetts, this is your freedom! Make yourselves agreeable by some means to Governor Sullivan or you are not to share the profits of our coasting commerce. Make yourselves agreeable to those who obtain the indulgence of our political Pope, or you may go without bread. . .'"⁶²

"Hence it appears," declared another Boston paper, "that the Chinese policy of granting licenses to Hon. Merchants is already adopted in the United States. How the inhabitants of the proscribed states will relish *a system* of monopoly, which must either starve them or compel them to pay whatever price the favored merchants may choose to place on their provisions, remains to be seen. The step, from such an assumption of executive authority to the exercise of imperial power, is but a short one."⁶³

A Connecticut paper published the following item:

The full Tide of Experiment.—Mr. Jefferson seems determined to ascertain the quantity of imposition which the people will bear. The prohibition of the coasting trade is an assumption of tyrannical power almost equal to the Decrees of Bonaparte.—The eastern states cannot subsist without supplies of Indian corn and flour from the middle and southern states. Mr. Jefferson has made Governor Sullivan the judge of the quantity of bread the good people of Massachusetts may eat, and of the prices at which they shall buy that quantity; nay more, he is to point out the *member of the Legion of Honor* who is to have exclusive profits on the importation of bread. Was ever such bare faced tyranny attempted in America before? Will independent Yankees submit to such an imposition?⁶⁴

Over six months later a Boston paper intimated that some individuals profited by the embargo. An interesting item read:

It is calculated and by republicans too, at the seat of government that Gen. Smith of *Baltimore* has made Four Hundred Thousand Dollars by the Embargo. We think there must be exaggeration in the case, altho' the recent rise upon his enormous capital of goods must amount to an immense sum.⁶⁵

Gallatin, Secretary of the Treasury, did not believe in grant-

⁶² Boston *Reperetory*, May 17, 1808.

⁶³ Boston *Gazette*, May 19, 1808.

⁶⁴ Connecticut *Courant*, June 1, 1808.

⁶⁵ New England *Palladium*, January 10, 1809.

ing discretionary powers to governors. On May 23, 1808, he wrote to Jefferson that the best method would have been to call on the governors for information. "Knowing Governors Sullivan and Charles Pinckney as we do," he said, "we can have no confidence in the last and must rest assured that the other will refuse no certificates."⁶⁶ Five days later he wrote that there was more danger from the permits than from any other quarter, for Governor Sullivan did not dare refuse a single permit. One mail alone, Gallatin said, brought permits for eleven thousand barrels of flour exclusive of corn and rye meal.⁶⁷

On July 15, 1808, Gallatin wrote to Jefferson summarizing Sullivan's permits as received at the treasury up to that day. They amounted to 49,800 barrels of flour, 99,400 bushels of corn, 560 tierces of rice, and two thousand bushels of rye. In addition to those specified amounts he had granted permits for either 7,450 barrels of flour, or thirty thousand bushels of corn. The flour then would amount to 57,250 barrels, or the corn to 129,400 bushels. In addition to granting permits to bring in exorbitant amounts of provisions, Gallatin charged Sullivan with a lack of care in selecting the persons; for, said he, according to report, some of the permits were issued to persons resident in Alexandria and Georgetown, "of whom he could know nothing."⁶⁸

Jefferson at once wrote to Sullivan about the certificates, but apparently with little effect. The latter declared, in his reply of July 21, that three weeks after the certificates were refused, scarcity would involve the state in mobs, riots, and convulsions which would give his enemies triumph and his friends mortification.⁶⁹ Two days later Sullivan wrote that the seaport towns were dependent almost entirely for bread on the Southern and Middle States, that the people of the interior lived on a mixture of Indian corn and rye for a common food but that their fine bread and pastry came from the South,

⁶⁶ *Writings of Albert Gallatin*, Vol. I, p. 391.

⁶⁷ *Ibid.*, p. 393.

⁶⁸ *Ibid.*, p. 394.

⁶⁹ Jefferson, *MSS.* Quoted in Adams, Henry, *History of the United States*. Vol. IV, p. 255.

and that the country towns consumed more imported flour than the equivalent of all the grain they carried to the seaboard. He insisted that the imported rice was small, admitted that the Indian corn brought in was greater, but urged that it could not find a market in the British or French West Indies even if there were no embargo. The corn, he declared, was in demand not as food for men, but for horses which consumed an astonishing amount.⁷⁰

In response to these letters and to correct the abuses which he believed existed, Jefferson wrote to Sullivan on August 12, 1808:

In mine of July 16th I had stated that, during the two months preceding that, your certificates received at the Treasury, amounted, if I rightly recollect, to about 60,000 barrels of flour, and a proportionate quantity of corn. If this whole quantity had been *bona fide* landed and retained in Massachusetts I deemed it certain there could not be a real want for a considerable time, and, therefore, desired the issues of certificates might be discontinued. If, on the other hand, a part has been carried to foreign markets it proves the necessity of restricting reasonably this avenue of abuse. This is my sole object, and not that a real want of a single individual should be one day unsupplied. In this I am certain we shall have the concurrence of all the good citizens of Massachusetts, who are too patriotic and too just to desire by calling for what is superfluous, to open a door for the frauds of unprincipled individuals who, trampling on the laws, and forcing a commerce shut to all others, are enriching themselves on the sacrifices of their honest fellow citizens;—sacrifices to which these are generally and willingly submitted as equally necessary whether to avoid or prepare for war.⁷¹

On September 16, Gallatin wrote Jefferson from New York that a large part of the difficulty in Massachusetts was due to Sullivan's permits, for they gave the power to smuggle out other things, when, without them, fish would be the only product which could be smuggled out. He declared that the issuance of certificates ought to be stopped or that some way to prevent the collectors from respecting them should be devised.⁷² About two months later, November 13, 1808, Jefferson wrote Lieutenant Governor Levi Lincoln of Massachusetts as follows:

⁷⁰ Jefferson MSS. Quoted in Adams, H., *History of the United States*, Vol. IV, pp. 254, 255.

⁷¹ *Writings of Thomas Jefferson*, Vol. IX, p. 205.

⁷² *Writings of Albert Gallatin*, Vol. I, p. 418.

I enclose you a petition from Nantucket and refer it for your decision. Our opinion here is that that place has been so deeply concerned in smuggling, that if it wants, it is because it has illegally sent away what it ought to have retained for its own consumption. Be so good as to bear in mind that I have asked the favor of you to see that your state encounters no real want while at the same time, where applications are made merely to cover fraud, no facilities towards that be furnished. I presume there can be no want in Massachusetts as yet, as I am informed that Governor Sullivan's permits are openly bought and sold here [Washington] and in Alexandria and at other markets . . . ⁷³

Jefferson's enemies naturally charged him with an attempt to regulate their diet. On July 12, 1808, he wrote to Gallatin that the declaration of the New York bakers that their customers would not be satisfied with bread made from New York flour was a libel on the produce and citizens of that state. If that disposition prevailed, he said, the next application would be for vessels to go to New York state for apples because the apples of that state were more highly flavored than the apples of other states.⁷⁴ This same rule, apparently, was applied to Louisiana, for on September 9, 1808, he wrote Gallatin: "You know I have been averse to letting Atlantic flour go to New Orleans merely that they may have the *whitest* bread possible."⁷⁵

Of course, the excessive power assumed by the president and exercised by his officials, often with poor judgment, gave rise to bitter opposition and attempts at evasion. Before taking up the question of smuggling, however, an undated but characteristic letter of Joseph Hopkinson of Philadelphia to Timothy Pickering will be quoted:

Bless the embargo! thrice blessed the President's proclamation, by which his minions are to judge of the appetites of his subjects how much food they may reasonably consume, and who shall supply them! If these things awaken not, we are, indeed, in the sleep of death, and can look for re-animation only at the sound of the last trump.

Have you wise men settled the question, whether, under the proclamation and embargo system, a child may be lawfully born without clearing out at the Custom House?⁷⁶

⁷³ *Writings of Thomas Jefferson*, Vol. IX, p. 227.

⁷⁴ *Works*, Vol. V, p. 307. Quoted in Adams, H., *op. cit.*, Vol. IV, p. 260.

⁷⁵ *Works*, Vol. V, p. 363. Quoted in Adams, H., *op. cit.*, Vol. IV, p. 260.

⁷⁶ Upham, C. W. *The Life of Timothy Pickering*, p. 131.

With the passage of new embargo laws attempts at evasion became more marked. The *Annals of Congress* abound with references to smuggling, many of which have been, and more of which will be, referred to in the arguments on the embargo. The very inconveniences, not to say hardships, imposed by the embargo led to law violations. J. B. McMaster points out some of these troubles. He takes the case of a miller who lived ten miles up East River. This man bought wheat in the city, carried it to his mill on his own boat, and took the flour back to New York in the same way. According to the laws in force in the summer of 1808, he had to go to New York, obtain a clearance, and give bond to bring flour to that city. He then had to get a certificate from the inspector, and go to the custom house to prevent a forfeiture of two hundred dollars for each ton of his boat. Under the same bond he might obtain leave to buy a certain quantity of wheat and carry it to his mill. His next step was to go to a magistrate six miles away and pay a good fee for a certificate stating that the wheat had really been landed at the mill. If he failed to bring the certificate to the collector in New York within thirty days he forfeited his bond.

Farmers of Greenwich, thirty miles up Long Island Sound, sent lamb, veal, poultry, and potatoes to New York. Eight small vessels were kept busy with this trade. The owners, according to the new embargo laws, had to clear at the custom house and give bonds to land their potatoes in New York. Greenwich, however, was in the jurisdiction of Fairfield, twenty miles away; hence the merchants had to make this journey before each trip to New York in order to get their clearances and bonds and after each trip to present their certificates of landing at New York and have their bonds cancelled. The owners, as a result, spent nearly half their time on the road between Greenwich and Fairfield.⁷⁷ The Enforcing Act of January 9, 1809, compelled owners of vessels to go two hundred to three hundred miles to sign bonds because of new regulation of which they were ignorant.⁷⁸

Opposition grew stronger after the passage of the first and

⁷⁷ McMaster, J. B. *A History of the People of the United States*, Vol. III, p. 300.

⁷⁸ *Boston Reperetory*, January 27, 1809.

third supplemental acts and the president's proclamation of April 19. Big rafts of lumber collected on the northern boundary at Lake Champlain. One of these was said to be half a mile long, to carry a bullet-proof fort, and to be manned by five or six hundred armed men ready to defy the custom-house officers. According to report, it carried Vermont's surplus produce for a year,—wheat, potash, pork, and beef—worth over three hundred thousand dollars. The governors of Vermont and New York ordered out detachments of militia to stop the traffic, but it continued.⁷⁹

Store houses, to which produce was carried for miles about, were established along the northern and southern boundary. Eastport in Maine and St. Marys in Georgia were great collection points of flour and other provisions; from the former goods were sent to Canada, and from the latter to the West Indies and other markets.⁸⁰

One of the most peaceful methods used in Vermont was to load a dozen sleds or wagons and drive towards Canada. The drivers would select a hill with steep slopes close to the boundary line and build a rude hut on the summit in such a way that the pulling of a stone from the foundation would cause the floor and walls to fall and the contents of the building to be thrown on English ground. After these arrangements were made, the potash, flour, pork, and lumber would be unloaded, placed in the building, and the stone removed. The barrels would thus be sent rolling into Canada where they became English property and were quickly carried away.⁸¹

Fifteen thousand barrels of flour were smuggled out of Genessee County, New York. One of the favorite smuggling points on the Lakes was at Black Rock just above the falls of Niagara on the American side of the Iroquois. To the hotel

⁷⁹ *National Intelligencer*, May 23, 1808.

⁸⁰ Hildreth, Richard, *History of the United States of America*, Vol. VI, p. 69. The newspapers of the period are crowded with references to smuggling, but only a few instances will be cited. Thus, in the North, foodstuffs, potash, etc., were taken across the line to Canada (*Boston Reperetory*, June 21, 1808; *Paulson's American Daily Advertiser*, January 14, 1809; *Connecticut Courant*, February 3, 1809). Likewise in the South foodstuffs, cotton, etc., were sent from the country notwithstanding the embargo (*Rel's Philadelphia Gazette and Daily Advertiser*, April 16, 1808; *Freeman's Journal*, January 2, 1809; *Richmond Enquirer*, January 7. and 31, 1809).

⁸¹ McMaster, J. B., *History of the People of the United States*, Vol. III, p. 294.

erected there British merchants and American farmers living south and east of Black Rock came; the former brought cash while the latter brought wagon loads of flour. The English merchant would then offer the farmer about eight dollars a barrel for his flour on condition that the flour be unloaded on the river bank. The farmer would do this in the evening. On the following morning the flour would be gone, for during the night it would be conveyed to the Canadian shore on small boats, carried by wagon around the falls, and then loaded on British boats and carried to Great Britain and her colonies.⁸²

Potash was also smuggled into Canada by the thousands of barrels. A Canadian letter dated January 30, 1809, declared that thirty thousand barrels had been received in Quebec from the United States during 1808.⁸³

Attempts at evasion, however were not always successful. A South Carolina shipper offered bonds and applied for clearance to carry five hundred hogsheads of rum from Charleston to New Orleans. The inspector, surprised at this large amount of rum, made an investigation and discovered that the hogsheads were full of rice, which was to be taken to Havana, sold, and a cargo of rum bought and carried to New Orleans. The collector there would certify that the rum had been landed and the certificate taken back to Charleston would release the bond.⁸⁴

All attempts, as previously indicated, were not, peaceable. Violence was not uncommon along the whole northern border. Five open boats loaded with potash tried to make the run from Fort Niagara to Canada, and in spite of the troops and collector, three were successful. In Oneida County, on Salmon River, the men on a revenue cutter acted so insolently that the people of the county seized them and put them in jail. At Lewiston, twenty men who were believed to have gone to Canada for that purpose, crossed over and forcibly carried off a quantity of flour.⁸⁵ At New Haven, Connecticut, a revenue vessel which had captured a sloop guilty of violating the em-

⁸² *Baltimore Evening Post*, January 24, 1809.

⁸³ *Freeman's Journal and Philadelphia Mercantile Advertiser*, February 4, 1809.

⁸⁴ McMaster, J. B., *op. cit.*, Vol. III, p. 298.

⁸⁵ *Ibid.*, p. 306.

bargo laws was attacked. The men were driven off the cutter, the prize was released, and the revenue vessel was carried out into the stream and burned.⁸⁶

Newspapers, whether friendly to the embargo or opposed to it, frequently commented on the lawlessness of the people. In fact, sections of New England were practically at war with the government authorities. In an action on Lake Champlain between two sloops and a raft fourteen or fifteen men were wounded and the raft escaped.⁸⁷ Another paper, quoting a Bennington letter of May 8, but in all probability describing the same affair, said that thirty-nine were severely wounded and one killed.⁸⁸ The opposition in the early summer became almost a rebellion. A Rutland item of June 4, read: "A detachment of one hundred and fifty of the militia, made from the 2nd brigade, marched from this vicinity on Tuesday last, to put a stop to the disgraceful potash and lumber rebellion on Lake Champlain."⁸⁹

At Middlebury, Vermont, a large and valuable raft seized by the government and guarded by twelve men was attacked by one hundred and fifty men from Canada and carried in. Shots were exchanged and blood marks were found the next morning.⁹⁰ At St. Albans, according to a statement sworn to by Lieutenant John Whittemore at Staunton on July 2, thirty men fought twelve soldiers in order to regain twelve barrels of potash, and succeeded.⁹¹

A Quebec paper, in commenting upon the frequent report that Canadians aided in recapturing rafts, said:

The raft which was fired upon at Windmill Point by the American guard, has arrived here. That part of the account given in the St. Alban's Adviser and copied into the last Gazette, which states that the men who carried off the raft were collected in Canada, is false. The people on board the raft amounted to 54; none of them were wounded by the fire from the shore, though a great number of balls were lodged in the raft. They

⁸⁶ *American Register*, Vol. V, p. 241.

⁸⁷ *National Intelligencer*, May 23, 1808.

⁸⁸ *Norwich Courier*, June 1, 1808.

⁸⁹ *National Intelligencer*, June 17, 1808.

⁹⁰ *Connecticut Courant*, June 29, 1808.

⁹¹ *Massachusetts Spy, or Worcester Gazette*, July 27, 1808.

saved themselves by lying down behind logs placed for the purpose the moment they saw the flash from the muskets of the people on shore.⁹²

Soldiers near Rutland, Vermont, on August 3, took possession of a batteau supposed to be used in smuggling potash. After threats, they were fired on and one soldier was killed. The batteau, at Lieutenant Farrington's order, then made for the shore to dislodge the smugglers. When the men landed, they were fired on again, another soldier was killed and the lieutenant wounded. Eight suspects were arrested, but four escaped. A reward of one hundred dollars was offered for S. I. Mott, the commander of the batteau, and of fifty dollars each for the other three suspects.⁹³

At least one rioter was executed for opposing the embargo laws and firing on the soldiers. A widely copied item from a Vermont paper read:

Dean, the person who was convicted of firing on the soldiers who were executing the Embargo laws in Vermont, has suffered the sentence of the law. He appeared perfectly composed and hardened, denied his crime; kicked his hat into his grave, spit upon his coffin; and pulled the cap over his eyes himself. No person prayed with him at the gallows.⁹⁴

Boats were sometimes loaded openly in defiance of embargo laws. Thus at Bath, Maine, the brig *Mary Jane* put to sea in defiance of a revenue cutter. The latter opened fire, but the *Mary Jane* returned the shots and continued on her way.⁹⁵

The *Wasp*, sloop of war, captured the schooner, *Liberty*, a vessel engaged in smuggling. One night, however, about forty "Indians" led by *Blue* or *Red Jacket* boarded the *Liberty*, put the *Wasp's* officer and crew on shore and took the *Liberty* to put to sea. These "Indians" called themselves descendants of the "aborigines" who destroyed the tea in 1773.⁹⁶

Naturally the attitude of the people was not without effect on the collectors. Moreover, their sympathies influenced their official action. Thus we note the following entry:

⁹² *Relf's Philadelphia Gazette, and Daily Advertiser*, August 8, 1808.

⁹³ *Boston Columbian Centinel*, August 10, 1808; *United States Gazette*, August 17, 1808.

⁹⁴ *Virginia Argus*, December 13, 1808.

⁹⁵ *Baltimore Evening Post*, January 14, 1809.

⁹⁶ *New York Herald*, January 18, 1809.

Some of the Collectors at the southward have grown more liberal in the construction of the Embargo laws; others are more strict. At Baltimore, we are told, coasters in ballast have been allowed to sail without giving bonds; while in North Carolina, a coasting vessel with staves, it is said, has been refused any clearance at all. . . .⁹⁷

In the North, cases of collusion were frequent. Officers winked at smuggling or made only half hearted attempts to prevent it.⁹⁸ Occasionally officers were removed for not using due diligence in the enforcement of laws. Among this number was Edward Pope, collector and inspector of the port of New Bedford, Massachusetts.⁹⁹

Later on, because of the pressure of public opinion or their own convictions, collectors handed in their resignations. The January papers, 1809, call attention to these resignations which grew out of the embargo act of that month. Thus we read: "On Sunday last, the new Embargo Act arrived in town. On Monday, our Collector, the venerable General Lincoln, who is now descending to the grave with wounds, received in the *struggle for Freedom*; and Benjamin Wild, Esq. Deputy Collector, both Resigned Their Offices."¹⁰⁰ About the same time, January 20, Colonel Olney and his brother, officers at Providence, Rhode Island, resigned rather than try to enforce the embargo.¹⁰¹ A week or so later Michael Hodge, surveyor at Newburyport, Massachusetts, resigned for a similiar reason.¹⁰²

The readiness of the Americans to violate the embargo laws is also apparent from the writings of spies and of foes and friends of the measure. John Howe, on May 5, 1808, wrote to Lieutenant General Sir George Prevost of Canada on the American situation. He referred to the numerous shipments of flour to Passamaquaddy and elsewhere, and advised a slight shifting of destination. He urged that on the whole, he was satisfied that every production of the United States could be easily obtained if the British really desired it and would afford some facility and security to the enterprising men who

⁹⁷ *New England Palladium*, June 7, 1808.

⁹⁸ *Boston Gazette*, May 19, 1808.

⁹⁹ *Boston Independent Chronicle*, August 18, 1808.

¹⁰⁰ *Boston Reperatory*, January 20, 1809.

¹⁰¹ *Paulson's American Daily Advertiser*, January 26, 1809.

¹⁰² *Boston Reperatory*, January 31, 1809.

would bring it in.¹⁰³ A little over a month later, June 7, he referred in another letter to Prevost to the ineffectual attempts to enforce the embargo.

"But all he [Jefferson] can do," said the British agent, "will not keep the Republican Lady honest. Upwards of 50,000 barrels of flour have been sent away from this city (New York) since the Embargo took place. And I am convinced that either here, or in any part of the Union, it would be easy to contract with individuals to furnish anything the country produces, and to send it where it might be necessary. Since the King's last Order in Council, which had only been published a few days ago, [the order of April 11, 1808, here referred to, instructed British naval officers and other officials not to interfere with any neutral vessel which was taking lumber or provisions to the British West Indies],¹⁰⁴ a sloop laden with flour came down the North River in the night, passed boldly by their Gun Boats, and got to sea, intending to go to our Islands in the West Indies."¹⁰⁵

In a letter of June 20, written at Philadelphia, Howe declared: "Among all the Republican virtues I find in exercise in this country, the love of money is by far the most predominant."¹⁰⁶ On August 5, he wrote to Prevost from New York about a southern trip. After describing the loyalty of the Southerners to Jefferson in spite of their suffering, he stated that notwithstanding their patriotism they were watching for every opportunity to violate the embargo. While at Norfolk, Virginia, he had a conversation with a captain who had lately returned from Kingston, Jamaica. The captain had cleared out from Georgetown to New Orleans with one thousand barrels of flour. On the way he had met with such bad weather that he lost both masts and injured his rudder. Very *providentially*, however, he met a British war vessel, which took him to Kingston. There he very *providentially* sold his flour at twenty to twenty-five dollars a barrel, got his vessel condemned and sold her. He was then on his way to Georgetown with a long protest in order to clear himself of bonds.

¹⁰³ "Secret Reports of John Howe," *American Historical Review*, Vol. XVII, pp. 80, 81. Howe's reports, it may be noted, are not entirely reliable.

¹⁰⁴ *Supra*, pp. 81, 86.

¹⁰⁵ "Secret Reports of John Howe," *American Historical Review*, Vol. XVII, p. 91.

¹⁰⁶ *Ibid.*, p. 94.

If the *providential* disasters were accepted, he expected to sail to Jamaica again within six weeks.¹⁰⁷

On November 16, 1808, in a letter from Boston to Prevost, Howe referred to the indignation over the embargo laws and the use of one hundred thousand militia. He again spoke of the open violations of the law. At Portland, he declared, a ship and two brigs had gone to sea with cargoes in open defiance of the *Wasp*, an American ship sent there to prevent them. From Cape Ann several others sailed, he said. On November 12, a brig and another vessel loaded with fish left Cape Cod. The brig, he declared, was seen and fired at by a gunboat, but she continued on her way in defiance.¹⁰⁸

The writings of Jefferson and Gallatin abound with references to law violations, and, incidentally, show reasons for opposition to the laws. Thus, on May 16, 1808, Jefferson wrote to Gallatin:

The numerous and bold evasions of the several embargo laws threatened altogether to defeat the great and interesting objects for which they were adopted, and principally under cover of the coasting trade. Congress, therefore, finding insufficient all attempts to bind unprincipled adventurers by general rules, at length gave a discretionary power to detain absolutely all vessels suspected of intentions to evade the embargo laws, wheresoever found. In order to give to this law the effect it intended, we find it necessary to consider every vessel as suspicious which has on board any articles of domestic produce in demand at foreign markets, and most especially provisions. . . .¹⁰⁹

In his reply a week later, Gallatin tried to point out that the embargo worked and that the evasions were fewer than he had expected. The danger, according to him, was secret bonding and departure without clearance. Previous violations, he held, had largely occurred in frontier districts or in the sailing of vessels before penalties could be enforced.¹¹⁰

On May 20, Jefferson wrote to General Benjamin Smith on the subject of the embargo. He declared that the question of how long the continuance of the embargo would be preferable to war would have to be met if the decrees, orders, and

¹⁰⁷ *Ibid.*, p. 99.

¹⁰⁸ *Ibid.*, p. 339.

¹⁰⁹ Gallatin, *Writings*, Vol. I, p. 389.

¹¹⁰ *Ibid.*, p. 391.

European wars continued. With regard to law enforcement, he said:

I am sorry that in some places, chiefly on our northern frontiers, a disposition even to oppose the law by force has been manifested. In no country on earth is this so impracticable as in one where every man feels a vital interest in maintaining the authority of the laws, and instantly engages in it as in his own personal cause. Accordingly, we have experienced this spontaneous aid of our good citizens in the neighborhoods where there has been occasion, as I am persuaded we ever shall on such occasions. Through the body of our country generally our citizens appear heartily to approve and support the embargo. . .¹¹¹

On June 23, in a letter to Dr. Thomas Leib, Jefferson referred to the opposition of the Federalists and stated that the time was not far distant when the embargo would have to be abandoned.¹¹² Nearly a month later, July 17, he wrote to Meriwether Lewis that foreign affairs did not clear up at all and that the moment would come when the legislature would have to decide whether or not war was preferable to embargo.¹¹³

On July 29 Gallatin wrote a pessimistic letter to Jefferson. He pointed out the various violations, particularly in the North, the opposition of the Federalists, and the inadequacy of existing laws. He urged that in order to make the embargo effective no vessel should be allowed to move without the president's special permission and that the collectors should be invested with the power of seizing property anywhere and of taking the rudders or otherwise effectually preventing the departure of any vessel without being liable to personal suits. These powers he considered absolutely necessary, though he admitted that they were "equally dangerous and odious." He insisted that there was need for a little army along the Lakes and British lines, for "selfishness has assumed the reins in several quarters, and the people are now there altogether against the law." He expressed a fear that they would have to give up the embargo, unless the president was clothed "with the most arbitrary powers and sufficient force" to carry it

¹¹¹ Jefferson, *Writings*, Vol. IX, p. 195.

¹¹² *Ibid.*, pp. 196, 197.

¹¹³ *Ibid.*, p. 200.

into effect. In that case he considered war inevitable but with which power—England or France—he asked.¹¹⁴

On August 11, Jefferson wrote to Gallatin:

This embargo law is certainly the most embarrassing one we have ever had to execute. I did not expect a crop of so sudden and rank growth of fraud and open opposition by force could have grown up in the United States. I am satisfied with you that if orders and decrees are not repealed, and a continuance of the embargo is preferred to war, (which sentiment is universal here,) Congress must legalize all *means* which may be necessary to obtain its *end*.¹¹⁵

Again on December 28, Gallatin wrote to Jefferson concerning attempts at violation of the law. He said:

All the cotton in New York has been purchased by speculators in Boston and they want to transport it. A single person wanted to ship six thousand bales, equal to 1,800,000 pounds. I have written to Mr. Gelston not to permit the shipment of one bale, as there must be a plan, though the details are not known, for its being illegally exported from Boston. As to Georgia, I do not perceive that anything more can be done than to send gunboats in addition to our small revenue boats.¹¹⁶

On January 17, 1809, Jefferson sent a circular letter through the Secretary of War to the various governors, empowering them to use militia in enforcing the law. Although the pressure of the embargo has been sensibly felt, he said, most people had borne it cheerfully under the conviction that it is a temporary and necessary evil. It would have been borne more cheerfully, he declared, had it not been violated by the unprincipled along the seacoast and frontiers. In cases, he observed, armed forces "too powerful to be opposed by the collector and his assistants" had set at defiance the laws.

A typical letter modeled after Jefferson's circular letter, was sent to the Governor of Virginia on the next day by Henry Dearborn, Secretary of War. After reciting the above facts, he wrote: "To put an end to this scandalous insubordination to the laws," the act of January 9, authorized the president "to empower persons to employ militia for preventing or suppressing armed or riotous assemblages of persons resisting the custom-house officers in the exercise of their duties, or oppos-

¹¹⁴ Gallatin, *Writings*, Vol. I, pp. 396-399.

¹¹⁵ Jefferson, *Writings*, Vol. IX, p. 202.

¹¹⁶ Gallatin, *Writings*, Vol. I, p. 448.

ing or violating the embargo laws." Such restrictions, the president hoped, Dearborn said, would last only a short time. He then asked for the appointment of a militia officer with proper forces near each custom-house in order to see that the laws were enforced.¹¹⁷

Six days later, Gallatin in an official report turned in a list of fifty-four places where violations of the embargo had taken place prior to November 14, 1808. They were, beginning roughly at the north and extending to the south: Portsmouth, Frenchman's Bay, Penobscot, Waldobow, Wiscasset, Bath, Portland, Newburyport, Ipswich, Gloucester, Salem, Marblehead, Boston, Portsmouth (Mass.), Barnstable, New Bedford, Dighton, Nantucket, Edgartown, Bristol, Providence, Newport, New London, Middletown, New Haven, Fairfield, Sacket's Harbor, Buffalo Creek, Sag Harbour, New York, Vienna, Snow Hill, Georgetown, Alexandria, Dumfries, Yeocomies, Richmond, Petersburg, Norfolk, Folly Landing, Cherrystone, Camden, Plymouth (N. C.), Oeracock, Wilmington (N. C.), Georgetown (S. C.), Charleston, and St. Marys. Most of the violations seemed to occur in the north and central parts, and naturally so, for most of the ports were there. This report Gallatin expressly stated was not complete.

"But numerous evasions and violations," he said, "have taken place; of which the official returns of the collectors herewith transmitted, give but a partial account, although this communication was delayed in order to obtain the information required by the latter part of the resolution of the house. For it cannot be concealed that illegal shipments and exportations of potash, flour and cotton and other articles, have been made to a much larger amount than might be inferred from a view of those returns."¹¹⁸

Any law to be effective must have the backing of the people; otherwise violations will be encouraged, judges may refuse to convict, and juries will release. In the summer of 1808 some Charleston merchants with the consent of the collector and district attorney applied for a mandamus to compel the collector to clear certain ships for Baltimore. The collector admitted his belief that the voyage was intended in good

¹¹⁷ Jefferson, *Writings*, Vol. IX, p. 237; and *Calendar of Va. State Papers & Other Mss.*, Vol. X, pp. 42, 43.

¹¹⁸ *American Register*, Vol. V, p. 85.

faith and that under the embargo law he had no right of detention; he then placed Gallatin's instructions before the court. The case was turned over without argument to Justice William Johnson of the South Carolina circuit. Although Johnson was the appointee and a warm personal friend of Jefferson, he decided that the act of Congress did not warrant detention and that consequently, without the sanction of law the collector was not justified by instructions from the executive in increasing commercial restraints. The mandamus was issued.

This decision worried Jefferson. On July 18, he wrote Governor Pinckney of South Carolina: "I saw them with great concern because of the quarter from whence they came, and where they could not be abscribed to any political waywardness."¹¹⁹ Rodney, Jefferson's Attorney General, tried to overrule Johnson's decision, and under the president's instructions wrote "an official opinion that the court had no power to issue a mandamus in such a case." By publishing this opinion in the newspapers, towards the end of July he forced Johnson into a newspaper controversy in which the judge defended his opinion temperately and with satisfaction to himself, but he never regained Jefferson's good opinion. In his own circuit the Georgia grand jury in December "made him the object of a presentment for improper interference with the Executive."¹²⁰

Jefferson derived encouragement, however, from an unexpected quarter. In September an embargo case was argued before John Davis, judge of the district court for Massachusetts. Samuel Dexter, the ablest lawyer in New England, urged the constitutional objections to the embargo with great force. Newspapers were decrying the law. Chief Justice Parsons of the Massachusetts Supreme Court, the best legal au-

¹¹⁹ *Works*, Vol. V, p. 322. Quoted in Adams, Henry, *History of the United States*, Vol. IV, p. 264.

¹²⁰ *Ibid.*, pp. 263, 264. The papers of the period are, of course, full of remarks on the constitutionality of the embargo, and decisions in embargo cases. The answer of Judge Johnson to the publication of the Attorney General's letter to the President on the subject of the mandamus was dated August 26. It was published in northern papers, as the *Massachusetts Spy*, or *Worcester Gazette* of November 16, 23, and 30, 1808.

thority in the state, cast his private influence against the law. Nevertheless, Judge Davis, one of the soundest of Federalists declared that the law was constitutional. He said:

Stress has been laid in argument on the word "regulate" as implying in itself a limitation. Power to "regulate" it is said, cannot be understood to give a power to annihilate. To this it may be replied that the acts under consideration, though of very ample extent, do not operate as a prohibition of all foreign commerce. It will be admitted that partial prohibitions are authorized by the expression; and how shall the degree or extent of the prohibition be adjusted but by the discretion of the national government, to whom the subject appears to be committed.¹²¹

After invoking the "necessary and proper" clause, Davis passed on to the doctrine of "inherent sovereignty." He said:

Further, the power to regulate commerce is not to be confined to the adoption of measures exclusively beneficial to commerce itself, or tending to its advancement; but in our national system, as in all modern sovereignties, it is also to be considered as an instrument, for other purposes of general policy and interest. The mode of its management is a consideration of great delicacy and importance; but the national right or power to adapt regulations of commerce to other purposes than the mere advancement of commerce appears to me unquestionable.¹²²

Congress has power [he said] in discussing necessity of state, to declare war. It of course has power to prepare for war; and the time, the manner and the measure in the application of constitutional means, seem to be left to its wisdom and discretion. Foreign intercourse becomes in such times a subject of peculiar interest, and its regulation forms an obvious and essential branch of federal administration. . . It seems to have been admitted in the argument that State necessity might justify a limited embargo, or suspension of all foreign commerce; but if Congress have the power, for purpose of safety, of preparation, or counteraction, to suspend commercial intercourse with foreign nations, where do we find them limited as to the duration more than as to the manner and extent of the measure?¹²³

Dexter did not appeal from the decision, for he knew that John Marshall would support it. The judgment, nevertheless, rankled. Even Joseph Story, later on a convert to Marshall's views, wrote: "I have ever considered the embargo a measure which went to the utmost limits of constructive power

¹²¹ Adams, Henry, *History of the United States*, Vol. IV, p. 268.

¹²² *Ibid.*, p. 269.

¹²³ *Ibid.*, pp. 269, 270.

under the Constitution, being in its very form and terms an unlimited prohibition or suspension of foreign commerce.¹²⁴

On September 14, Gallatin wrote Jefferson concerning the difficulty of instituting prosecutions in northern New York.¹²⁵ On December 21, 1808, John Quincy Adams wrote Ezekiel Bacon in favor of substituting something else for the embargo as quickly as possible on the score that the law would not be executed. State authority, he urged, would oppose the law notwithstanding the decision of Judge Davis, juries would not convict, constitutional objections would recur with ten-fold greater power, and soon state judges would decide in their own way.¹²⁶ On January 16, 1809, he wrote to William Branch Giles as follows:

You will have been informed that two instances of forcible violations of the embargo laws have occurred at the two extremities of our sea coast within this Commonwealth. The district court after sitting seven or eight weeks, and trying upwards of forty cases, has at length adjourned. Not one instance has occurred of a conviction by jury, and finally one of the jurymen is said to have declared that he never would agree to convict any person under these laws *whatever might be the facts*. The judge has been firm and decided in support of the laws, as far as his authority extended.¹²⁷

Gallatin, on November 24, in advising the committee of which W. B. Giles was chairman, had referred to the vexatious suits which were brought against collectors for the purpose of bothering them and of intimidating others from the discharge of their duties. He referred also to the attempts made to take from collectors "by writs of replevin issued by state courts or officers," property seized in conformity with the embargo laws. He declared, moreover, that vessels and cargoes had been "restored to the owners on their giving security for the appraised value" at an amount "so low as to reduce the forfeiture to an inconsiderable sum, thereby defeating altogether the law."¹²⁸

The act of January 9, 1809 was intended to make it difficult for collectors and others charged with enforcing the

¹²⁴ Story W. W., *Life and Letters of Joseph Story*, Vol. I, p. 185.

¹²⁵ Gallatin, *Writings*, Vol. I, p. 417.

¹²⁶ Adams, J. Q., *Writings*, Vol. III, pp. 277, 279.

¹²⁷ *Ibid.*, pp. 287, 288.

¹²⁸ *American Register*, Vol. IV, pp. 266, 267.

embargo laws to be prosecuted and persecuted in the discharge of their duties. That it did not fully succeed numerous instances could prove, but the following one must suffice. A man by the name of Charles Bean was appointed captain of militia by Levi Lincoln, Lieutenant Governor of Massachusetts, on February 1, 1809. Four weeks later, February 26, he received a letter from Alexander McIntire, collector at York, asking him to go on board a ship named *Beckey*, which was suspected of an intention to violate the embargo laws, and detain her temporarily. Accompanied by six private soldiers and deputy inspector David Barker, he obeyed the instructions. No violence was committed, but a half hour after the company entered the vessel, William Boyd, the reputed owner, came on board and ordered them off with harsh language. At the same time he threatened to raise a mob to take the vessel by force if the men did not leave. The authorities, however, remained on board till the tide had ebbed so much that it was impossible for the boat to leave.

Two days later these authorities were arrested on a warrant issued by Daniel Sewall for a riot in entering the *Beckey*, and the next day they were carried before Jacob Fisher of Kennebunk, twenty miles from York, though there were at least eight magistrates of competent jurisdiction in York. Justice Fisher declared the embargo laws unconstitutional, the order of Lincoln illegal, and required each man to give surety of fifty dollars that he would put in an appearance at the superior court at York. After attending this court for thirteen days, they were discharged by the grand jury. For the time and trouble occasioned by this interference Bean put in a claim of \$219.44, which the committee considered reasonable.¹²⁹

Opposition to the embargo, of course, showed one of its manifestations in an attempt to drive the Republicans out of office. Newspapers, open air political meetings, etc. were used in such an effort. One of Bryant's poems written when he was only fourteen years old, shows the feeling prevalent in his native village:

¹²⁹ *American State Papers, Class IX, Claims*, Vol. XIX, pp. 382, 383.

Curse of our nation, source of countless woes,
 From whose dark womb unreckoned misery flows:
 Th' embargo rages, like a sweeping wing,
 Fear lowers before, and famine stalks behind

.
 And thou, the scorn of every patriot's name,
 Thy country's ruin and her council's shame!
 Poor servile thing! Derision of the brave!
 Who erst from Tarleton fled to Carter's cave,
 Thou who when menaced by perfidious Gaul
 Didst prostrate to her whiskered minions fall;
 And when our cash her empty bags supplied
 Didst meanly strive the foul disgrace to hide;
 Go, search with curious eyes for horned frogs,
 Mid the wild waste of Louisiana bogs;
 Or where Ohio rolls his turbid stream
 Dig for huge bones, thy glory and thy theme.

.
 But quit to abler hands the helm of state
 Nor image ruin on thy country's fate. . .¹³⁰

The use of poetry to attack the embargo was not confined to the North. The last stanza of a poem written and used in Charleston, South Carolina, is worth quoting:

Then hail Columbia! happy land! and hail ye Heav'n born sages!
 Your wise Embargo long shall stand in fame's immortal pages;
 Long-winded Madison shall prate of British usurpation,
 Till xxx blow the blockheads up and save a sinking nation.¹³¹

Jefferson, like many people of the present day, appeared to live for applause, but little came to him or his measures from New England. Ridiculed in newspapers, denounced in public assemblies and in song, he persisted long in his efforts to save his favorite child in spite of the dangers to himself and party. A song composed by Henry Mullen of Dover, New Hampshire, and sung there at the fourth of July celebration in 1808, showed the characteristic New England attitude, and consequently, though rather long, is quoted in entirety:

¹³⁰ *Embargo*. Quoted in Muzzey, David, *Thomas Jefferson*, p. 278.

¹³¹ *Boston Repository*, September 2, 1808. "XXX" stand for Pinckney, Pickering, Randolph, etc.

Dear sirs, it is wrong
 To demand a *new song*;
 I have let all the breath I can spare go;
 With the Muse I've conferr'd,
 And she won't say a word,
 But keeps laughing about the *Embargo*.

I wish that I could
 Sing in *Allegro* mood;
 But the times are as stupid as *Largo*;
 Could I have my choice,
 I would strain up my voice,
 Till it *snap*t all the strains of *Embargo*.

Our great politicians,
 Those dealers in visions,
 On *paper*, to all lengths they dare go
 But when call'd to decide,
 Like a *turtle* they hide
 In their own pretty *shell*, the *Embargo*.

In the times that we try
 To put out Britain's *eye*
 I fear we shall let our own *pair* go;
 Yet still we're so wise,
 We can see with *French* eyes
 And then we shall like the *Embargo*.

A French privateer
 Can have nothing to fear;
 She may *load* and may *here* or may *there* go;
 Their friendship is such,
 And we love them so much,
 We let them slip thru' the *Embargo*.

Our ships, all in motion,
 Once whitened the ocean,
 They sail'd and return'd with a *cargo*;
 Now doom'd to decay
 They have fallen a prey
 To Jefferson, worms, and *Embargo*.

Lest Britain should take
 A few men by mistake,
 Who under false colours may dare go;
 We're manning their fleet
 With our Tars who retreat
 From poverty, sloth, and *Embargo*.

they must if speaking did not answer."³⁰ A handbill circulated at Newburyport contained the following:

You have reposed confidence in a coward [Jefferson]. Nerve your arms with vengeance against the despot who would wrest the inestimable germ of your independence from you, and you shall be conquerors. Give ear no longer to the siren voice of democracy and Jeffersonian liberty. It is a cursed delusion, adopted by traitors, and recommended by sycophants.³¹

Resolutions from Bath, Gloucester, Augusta, Belfast, Castine, Alfred, Portland, Wells, Hallowell, Beverly, Salem, Newburyport, Gloucester, Boston, Cambridge, Hadley, Brewster, Sanford, Northampton, North Yarmouth, Amesbury, Oxford, New Bedford, Provincetown, Plymouth, Marblehead, Duxbury, Somerset, Taunton, Lynn, Bolton, Sterling, and from dozens of other places came pouring in on Jefferson and Congress in condemnation of the hostile attitude towards Great Britain and "cringing sycophancy" towards France.³²

Even before the passage of the Enforcement Act of January 9, 1809, a town meeting in Bath, Maine, on December 27, 1808, as reported in the *New England Palladium* of January 3, 1809, adopted resolutions calling on the general court at its meeting of January 25, to take immediate steps to relieve the people "either by themselves alone, or in concert with other commercial states." At the same time, the Bath meeting voted "that a committee of safety and correspondence be appointed to correspond with committees of other towns . . . and watch over the safety of the people of this town, and to give immediate alarm so that a regular meeting may be called whenever any infringement of their rights shall be committed by any person or persons under color and pretence of authority derived from any officer of the United States."³³ On January 12, Gloucester formally approved the Bath Resolutions, voted an address to the general court, and appointed a committee of public safety.³⁴ Other towns, however, in general, dropped

³⁰ See the collection of clippings in Randall, H. S. *The Life of Thomas Jefferson*, Vol. III, p. 283.

³¹ Randall, H. S., *Life of Thomas Jefferson*, Vol. III, p. 283.

³² McMaster, J. B., *History of the People of the United States*, Vol. III, pp. 327, 328.

³³ Adams, Henry. *History of the United States*, Vol. IV, pp. 409, 410.

³⁴ *Ibid.*, p. 410.

CHAPTER VI

GROWING OPPOSITION TO EMBARGO FINALLY FORCES REPEAL

That Jefferson considered the possible effects of the embargo on the political future of his party is apparent from his writings, but that he was determined to persist in spite of its possible influence on the coming presidential election in November of 1808 is even more apparent. His letter of August 11, 1808, to Gallatin, already quoted, refers to "embarrassments" arising from the embargo, but, nevertheless, explicitly states that "Congress must legalize all *means*" necessary to enforce the embargo.¹ That letter was written only five days after Gallatin had written him that if the embargo were not raised before the first of October they would lose the presidential election. The Secretary of the Treasury declared that the western states, and Virginia, South Carolina, and Georgia were the only sound states. In every other one, he said, they would have a doubtful contest.² There is little doubt in the mind of the present writer that this fear of Federalist success was one of the "embarrassments" Jefferson had in mind when he penned the letter of August 11. Gallatin's letter, in turn, might have been influenced by one he received from Robert Smith, dated Baltimore, August 1. Smith had written:

Most fervently ought we to pray to be relieved from the various embarrassments of this said embargo. Upon it there will, in some of the States, in the course of the next two months, assuredly be engendered monsters. Would that we could be placed upon proper ground for calling in this mischief-making busybody.³

John Howe, the British agent, who was a very keen observer, wrote to Prevost on June 22, that the Federalists had a good chance to win New Jersey.⁴ On August 5, however,

¹ Jefferson, *Writings*, Vol. IX, p. 202.

² Gallatin, *Writings*, Vol. I, p. 402.

³ Adams, Henry, *Life of Albert Gallatin*, p. 373.

⁴ *American Historical Review*, Vol. 17, pp. 93, 94.

after the completion of a southern trip, he wrote that the Federalists were deceiving themselves in expecting success in North Carolina, South Carolina, and Georgia, for, though suffering from the embargo, the people had "the most bitter enmity to Great Britain." Later on, in this same letter, he declared that he could not see Federalist success south of Pennsylvania.⁵ Afterwards, from Boston, in an undated letter probably written about election time, Howe declared that the embargo had "completely federalized all the New England states."⁶

Howe proved a better prophet than Gallatin. Massachusetts, it is true, early relapsed to Federalism and Senator John Quincy Adams was overthrown in the spring of 1808. The Federalists also made gains in New York in the spring elections. New Hampshire and Rhode Island chose electors by popular vote; by fair majorities they cast their votes for Pinckney in place of Madison. In Massachusetts and Connecticut, Federalist electors were chosen by the legislatures. Early in September Vermont elected a Federalist governor, but the "rotten boroughs" of the state were numerous enough to enable the legislature to choose electors pledged to Madison. If Vermont had been counted as she voted in September, the Federalists would have received forty-five electoral votes in New England, whereas they only received nine in 1804. In New York the opponents of the embargo were strong, and in a popular vote nineteen electors might have been wrested from Madison. In that case Pennsylvania's vote would have been decisive. Maryland and North Carolina were close and might have followed Pennsylvania's lead. The result, however, was already decided. Pennsylvania voted for Madison. Simon Snyder was chosen governor by a majority of twenty thousand. Monroe withdrew from the contest and thus kept Virginia's vote from being divided. DeWitt Clinton contented himself with depriving Madison of six of New York's electoral votes and casting them for his uncle, George Clinton,

⁵ *Ibid.*, pp. 99-102.

⁶ *Ibid.*, pp. 332, 333.

the vice president. The true results of the election were thus not apparent, but the Republican votes fell from 162 in 1804 to 122 in 1808, the Federalist minority increasing from 14 to 47.⁷

On January 21, 1809, Jefferson, in his letter to Thomas Leiper, admitted that the Federalist charges, growing out of the embargo policy, that he wanted to destroy commerce by adopting a Chinese policy, had done "much to federalize New England."⁸ Later, on March 8, 1809, he went further in his letter to William Short. He said: "Our embargo has worked hard. It has in fact federalized three of the New England States. Connecticut you know was so before."⁹

The New England towns, of course, had an excellent way of showing their dissatisfaction by means of town meetings. These were numerous at all times and great indignation was expressed against the embargo, Jefferson, and the Republicans. On March 25, 1808, Benjamin Tallmadge, a Connecticut member of the national House of Representatives, wrote to James McHenry, former Secretary of War under Washington and Adams:

The Spirit of '76 seems to be again breaking out in New England. In Northampton the people have assembled and voted on public measures like free men, & have recommended similar meetings through the country. In the State of New Hampshire, the *dominant* party begins to take back Ground, & hopes are entertained that the Embargo may prove an useful medicine. If these primary *Assemblies* should begin to act with vigor, my word for it, the higher constituted Authorities will feel their Influence.¹⁰

On Saturday morning, the 26th, he added the following:

P. S. Since I wrote the foregoing, I have procured a No. Hampton paper which I will enclose for your perusal. A letter from a Gentleman at N. Hampton, just recd. remarks that, in consequence of the Notification expressed in the 4th vote, Meetings had been legally warned & held through *Hampshire County* (of which No. Hampton is the County Town) & that between 50 & 60 Towns had united to petition Congress etc. etc. These petitions may soon be expected at the seat of Government. As soon as

⁷ Adams, Henry, *History of the United States*, Vol. IV, pp. 283-287. For the completely tabulated vote, see Stanwood, *History of the Presidency*, Vol. I, p. 95.

⁸ Jefferson, *Writings*, Vol. IX, p. 239.

⁹ *Ibid.*, p. 249.

¹⁰ Steiner, B. C., *The Life and Correspondence of James McHenry, Secretary of War under Washington and Adams*, p. 546.

these Events are made known I presume the Majority will begin to talk about an Adjournment of Congress etc.¹¹

Inflammatory notices early appeared in the newspapers and urged the meetings to which Tallmadge referred. One of these, signed by a coaster, read:

AROUSE — AWAKE!

How long are the Inhabitants of Massachusetts to remain in their present quiescent state! Why do not the citizens assemble and express their sentiments upon the measures of the Government, in a firm, dignified and constitutional manner!

An Embargo Upon Our Coasting Trade!! No vessel above Twenty Tons to go from Port to Port!!!!

Forbid it, ye Citizens of the extensive Sea Coast of Massachusetts; arouse, arouse from your lethargy, assemble in your different towns, and convey *your Will* to your *Servants* in Congress.¹²

The *National Intelligencer* carried a department under the title *Quem Deus Vult Perdere, Prius Dementat* in which it quoted from radical anti-administration newspapers. The *New York Commercial Advertiser* was represented as saying:

They [the people] are quitting with precipitation the whitened sepulchre of all unhinging democracy, that slaughter-house of true liberty, inhabited only by the blood-stained ghosts of Robespierre, Marat, etc. to enter once again into the temple of truth, candor and federalism, where the paternal shade of Washington with anxious solicitude, beckons their approach, and with characteristic benignity welcomes their return to their father's mansion, from which in an *evil hour* they had strayed.¹³

Petitions and memorials prepared in or as a result of town meetings came to Congress and Jefferson. The memorial of St. Albans has already been considered. Only one other of the petitions or meetings following the early embargo acts will be considered here. That meeting was held in Boston at Faneuil Hall, August 9. Jonathan Mason offered a motion that it was expedient to petition the president to suspend the embargo wholly or partially in accordance with the powers vested in him by Congress, and, if he had any doubts about the matter, that he call Congress together as soon as possible. The motion also included the appointment of a committee

¹¹ *Ibid.*, p. 546.

¹² *Boston Gazette*, March 18, 1808.

¹³ *National Intelligencer*, August 1, 1808.

of seven to prepare and submit to the town a memorial. After a spirited debate, Mason's resolution passed by a big majority. At four o'clock the following memorial was passed almost unanimously:

That uniformly influenced by a sense of Patriotism, & a respect for the Constituted Authorities of their Country, they have sustained without opposition or complaint the embarrassments & losses arising from the existing embargo on the vessels & export trade of the United States; and they trust that the history of the revolutionary war, & the annals of the present government will furnish ample testimony of their readiness to make any personal sacrifice & to endure any privations which the public welfare may truly require.

That they are fully aware of the indispensable necessity of supporting at all times the laws enacted by the Government of their choice. Under this impression they have refrained from expressing the wishes they most sensibly feel for the removal of the Embargo, & but for the great events in Europe [revolutions in Spain driving out French] which materially change the aspect of our foreign relations, they would yet silently wait for the Meeting of Congress, in the hope of obtaining from that Honorable Body relief from the pressure of this great calamity, which bears with peculiar weight on the Eastern States.

Denied by nature those valuable & luxuriant Staples which constitute the riches of the south, they necessarily owe much of their prosperity under the Blessing of Heaven to their own enterprise & Industry on the Ocean. . .

They therefore pray that the Embargo in whole or in part may be suspended according to the powers vested in the President by the Congress of the United States, & if any doubt should exist of the competency of those powers they would humbly request that the Congress may be convened as early as possible, for the purpose of taking the subject into their consideration.¹⁴

The selectmen were then appointed to transmit the petition to the president, and also to communicate their action to the other towns of Massachusetts, "and to request them, if they see fit, to lay the same before their several Towns for their concurrence."¹⁵

Canon, Barnstable, Lynn, Watertown, Bridgewater, Rochester, Tisbury, Noblesborough, Searboro, Monmouth, Limington, Standish, Parsonsfield, New York, Wrentham, Salem, Worcester, Pittstown (Me.), Newburyport and other towns

¹⁴ *A Volume of Records Relating to the Early History of Boston containing Boston Town Records 1796 to 1813*, pp. 237-239.

¹⁵ *Ibid.*, p. 239. See also *Massachusetts Spy or Worcester Gazette*, August 17, 1808.

through selectmen, town meetings, or specially called meetings of citizens failed to follow Boston's advice.¹⁶

On the other hand, numerous towns as Portland, Portsmouth, Hamilton, Wenham, Ipswich, Beverly, Sterling, Lancaster, Northborough, Rutland, Leominster, Petersham, Brighton, Somerset, Duxbury, Waldoborough, Bolton, Warren, Sanford, Gorham, and Vassalboro condemned the embargo. The Federal Republicans of Norfolk district at Dedham on October 4 did likewise. Two days later an Essex county meeting (representing Salem, Beverly, Newburyport, Ipswich, Newbury, Lynn, Gloucester, Rowley, Salisbury, Wenham, Manchester, Haverhill, Bradford, Boxford, Methuen, Middleton, Andover, Marblehead, Topsfield, Danvers, and Hamilton) held at Topsfield condemned the embargo. New Bedford, Augusta, Belfast, Douglas, and Plymouth were also numbered among the numerous towns showing sympathy for Boston.¹⁷

English newspapers, carefully watching American news, noted this growing opposition. "In America, the operation of the embargo seems to be severely deprecated by almost all descriptions of people," remarked one, "and the numerous petitions for its revocation, which are assailing the President from every commercial town in the States, will probably lead to its removal, or to more serious consequences. . ."¹⁸ Over a month later the same paper remarked:

The American people suffer so much from the Embargo that they speak to their Government for its revocation in a language which *must* be heard. The opposition to the measures of the President ceases to be the clamor of a party; it has become the voice of the nation, and is every day more strongly and more decidedly expressed. . .¹⁹

A radical New Orleans paper vigorously attacked the embargo and its supplemental measures which were designated as troughs. The editor pointed out the harmful effect on the

¹⁶ *Independent Chronicle*, September 1, and 22, 1808.

¹⁷ *Massachusetts Spy or Worcester Gazette*, August 24 and September 7, 1808; *New England Palladium*, September 16, 1808; *Boston Reperetory*, October 14, 1808. See also McMaster, J. B. *History of the People of the United States*, Vol. III, pp. 312, 313.

¹⁸ *Independent Whig*, October 16, 1808.

¹⁹ *Ibid.*, November 27, 1808.

rich man's palace, the poor man's harvest, and ridiculed the embargo's supposed efficacy in bringing England to terms.²⁰

December 22, 1808, the anniversary of the passage of the embargo act, was observed as a day of mourning in many of the New England towns by the Federalists. At Salem the sailors met at sunrise at the old historic North Bridge and fired minute guns for a half hour. At Beverly the vessels in the harbor displayed their flags at half mast; the crews marched the street to dismal music. The flag on the great bridge at Providence hung at half-mast throughout the day; the ships in Boston Harbor were "shrouded in mourning."²¹ Portland solemnized the anniversary of the embargo as a day of mourning. The bells were tolled, vessels suspended their colors at half mast, "a solemn procession of suffering people with badges of mourning" carried a dismantled ship.²²

At Newburyport, Massachusetts, bells tolled at sunrise, flags hung at half mast, and minute guns were fired. The tolling of bells and the discharge of cannon were repeated at twelve and four o'clock. A procession of sailors with crape on the left arm, marshalled by an officer, marched with muffled drum through the principal streets of the city. A dismantled ship came next in the procession. A bell tolled on the vessel, and inverted cans, signifying a lack of grog, capped her masts. "Death to Commerce" appeared on a flag. "O grab me" was painted on the bows of the vessel. An old sailor stood on the quarter deck, inquiring in the words on her stern, "*Which way shall I steer?*" Just across from the custom house was a flag representing a terrapin with his head in "*most dignified retirement.*" When the procession reached the custom house, it halted, and a sailor standing in the main chains delivered a carefully prepared address. A large crowd of spectators heartily applauded. The sailors concluded their ceremony with a clam dinner.²³

²⁰ *La Lanterne Magique*, November 20, 1808.

²¹ McMaster, J. B., *History of the People of the United States*, Vol. III, p. 323; and *Boston Gazette*, December 22, 1808.

²² *New England Palladium*, January 10, 1809.

²³ *Boston Reperetory*, December 27, 1808.

The following item, surrounded in heavy black, appeared in a Boston paper:

This day completes one whole year since the passing of Mr. Jefferson's first Embargo Law. It is an epoch, which we are bold in asserting, has no parallel in political or commercial history; and in the contemplation of its extraordinary features and effects, brings to remembrance a retrospect of privations, at once painful and humiliating. As we are doomed to this species of political castigation by the *authority of Law*, it is perhaps a praiseworthy action of moral patriotism to suffer patiently; but how far the stoicism of those, who feel its inefficacy and inexpediency—whose fortunes have been abridged and their accustomed avocations completely annihilated by the "*strong*" and "*coercive*" measure, will endure is a question of no ordinary magnitude and importance. At present, they rest in silence, leaning on the anchor of Hope and appear by the annexed comments, to offer on this inauspicious day, no other show of resistance, than what is exhibited in the usual emblems of mourning.²⁴

The Washington *Federalist* of December 22 gave voice to a more inflammatory editorial:

This is the Birthday of the Embargo. This illshapen brat of backstairs intrigue has now lived a year. The first thing of the kind that ever arrived at such an age. And Mr. Jefferson is the only potentate that ever lived, who had either power or will to keep such a monster alive for such a length of time. It surprises and astonishes the present race of mankind, and will be described by generations to come with wonder and amazement. The future historian will search for the reason for the birth, life and adventures of this all devouring animal; but for the honor of human nature we hope he will search in vain. How much longer we are to pant under the pestiferous breath of this poisonous dragon is not for us to determine. This much we can predict, however, without the spirit of prophecy, that if the fathers of the monster, do not soon stifle it, a Hercules will arise in the north who will put it to rest.²⁵

Even before the Enforcement Act was passed in accordance with Gallatin's wishes, a Boston paper made a strong attack on the anticipated measure:

If the people of New England will bear the measures now proposed by Mr. Gallatin's report for enforcing the Embargo they are already slaves and nothing is to be hoped for. Mr. Giles has already brought in a Bill in conformity to this report, by aid of which the Embargo Laws are to be enforced with a tyranny equal to Bonaparte's. And what is most alarming of all, is this, that the authority of the state governments is to be crushed and the officers of the general government may plunder

²⁴ *Boston Gazette*, December 22, 1808.

²⁵ *United States Gazette*, December 29, 1808.

and murder and will still be protected by the strong arm of a Jacobin administration.

How is Massachusetts, the cradle of American liberty fallen? Her rights are destroyed—her citizens enslaved.²⁶

A New York paper, on January 4, 1809, declared that the enforcing act exhibited despotism "without even a cobweb to cover its nakedness."²⁷

After the passage of the Enforcement Act, January 9, 1809, newspapers, protests, and town meetings became very inflammatory. Three weeks later the editor of a New York paper wrote:

We this day place upon our *Journal*, that monstrous engine of oppression, projected by Albert Gallatin—framed by the Virginia Giles—and put into operation by the servile majority in Congress. Bad as this law is, it has at least one good effect. It has served to convince everybody of the designs of the administration, and to arouse the patriotism of the nation.

As the most trifling infraction of this law will be punished in a terrible manner, we beg leave to advise our readers to read it with attention, and scrupulously obey its injunctions.²⁸

The same paper then referred to the talk of rebellion:

Insurrection!—Rebellion!—Treason!

These three words furnish the subject matter of nine-tenths of the contents of all of our jacobin papers. The slaves who conduct these papers are advised to "*keep their temper*." Their trick will no longer gull the people—and their vamping is lost on the patriots of the country. The heroes of the revolution were called *rebels*, *insurgents*, and *traitors*, by just such slaves in '74, 5 & 6. In those stormy days, they opposed the tyrannical decrees of George the Third. They now feel impelled by their duty to oppose the no less tyrannical decrees of a man, who, under the garb of republicanism, assumes more power than any monarch on earth, Bonaparte excepted. If they are again called *rebels*, *insurgents*, and *traitors*, they will regard it as little as they did then. They will always be found equally faithful and steadfast in their principles, and equally indifferent to the threats and menaces of despots and their tools.²⁹

The Boston *Reperetory* again declared that the enforcement act would soon be set at defiance, if not repealed, and that it behooved the people of Massachusetts "to speak, for strike

²⁶ *Boston Gazette*, December 25, 1808.

²⁷ *The Balance and New York State Journal*, January 4, 1809.

²⁸ *Ibid.*, January 28, 1809.

²⁹ *Ibid.*, January 28, 1809.

they must if speaking did not answer."³⁰ A handbill circulated at Newburyport contained the following:

You have reposed confidence in a coward [Jefferson]. Nerve your arms with vengeance against the despot who would wrest the inestimable germ of your independence from you, and you shall be conquerors. Give ear no longer to the siren voice of democracy and Jeffersonian liberty. It is a cursed delusion, adopted by traitors, and recommended by sycophants.³¹

Resolutions from Bath, Gloucester, Augusta, Belfast, Castine, Alfred, Portland, Wells, Hallowell, Beverly, Salem, Newburyport, Gloucester, Boston, Cambridge, Hadley, Brewster, Sanford, Northampton, North Yarmouth, Amesbury, Oxford, New Bedford, Provincetown, Plymouth, Marblehead, Duxbury, Somerset, Taunton, Lynn, Bolton, Sterling, and from dozens of other places came pouring in on Jefferson and Congress in condemnation of the hostile attitude towards Great Britain and "cringing sycophancy" towards France.³²

Even before the passage of the Enforcement Act of January 9, 1809, a town meeting in Bath, Maine, on December 27, 1808, as reported in the *New England Palladium* of January 3, 1809, adopted resolutions calling on the general court at its meeting of January 25, to take immediate steps to relieve the people "either by themselves alone, or in concert with other commercial states." At the same time, the Bath meeting voted "that a committee of safety and correspondence be appointed to correspond with committees of other towns . . . and watch over the safety of the people of this town, and to give immediate alarm so that a regular meeting may be called whenever any infringement of their rights shall be committed by any person or persons under color and pretence of authority derived from any officer of the United States."³³ On January 12, Gloucester formally approved the Bath Resolutions, voted an address to the general court, and appointed a committee of public safety.³⁴ Other towns, however, in general, dropped

³⁰ See the collection of clippings in Randall, H. S. *The Life of Thomas Jefferson*, Vol. III, p. 283.

³¹ Randall, H. S., *Life of Thomas Jefferson*, Vol. III, p. 283.

³² McMaster, J. B., *History of the People of the United States*, Vol. III, pp. 327, 328.

³³ Adams, Henry. *History of the United States*, Vol. IV, pp. 409, 410.

³⁴ *Ibid.*, p. 410.

the committees of public safety, but the town meetings continued. As reported in the *New England Palladium* of February 3, 1807, the town of Wells in the district of Maine voted, on January 23: "That we deprecate that cringing sycophancy which has marked the conduct of our national government toward the tyrant of Europe, while we view with indignation and alarm its hostility toward Great Britain."³⁵ The *New England Palladium* of February 17, 1809, presented the petition of Alfred, a small town of Maine. This petition charged the national government with an attempt "to provoke a ruinous and destructive war with England, to gratify the ambition and caprice, and augment the power of the tyrant of France."³⁶

Two protests against the embargo, and particularly against the Enforcement Act will be considered in some detail here—one from the third ward of New York City and the other from a Boston town meeting. On February 6, 1809, Mr. Mumford of New York presented to the House a memorial from New York City addressed to Congress.³⁷ This remonstrance pointed out the evils under the enforcement act, the delays, vexations, and oppressions, upon practically every class of the community.

Upon the small trader and boatman, when unable to find security [read the memorial,] the act operates as a total prohibition of the use of his property. It increases the expenses and risks of those engaged in transportation; it thus diminishes competition and supplies; and, without benefitting the farmer, enhances the prices of fuel and provisions in the cities, at a time, in other respects, sufficiently calamitous.³⁸

Objections were urged to the number and amount of bonds, spies and informers, extra officers, and arbitrary power. "We presume," so read the memorial, "New York is the only city on earth, where according to a public and formal law, the people may be starved at the mere will of a single individual."³⁹ The protest declared:

³⁵ *Ibid.*, p. 414.

³⁶ *Ibid.*, pp. 415, 416. See also Boston *Columbia Centinel*, February 22, 1809.

³⁷ *Annals of Congress*, Vol. 19, pp. 1777-1780.

³⁸ *Ibid.*, pp. 1778, 1779.

³⁹ *Ibid.*, p. 1779.

To hardships, deprivations, and oppressions, such as this act may impose, it scarcely can be expected that the freemen of this country will submit.

They can never submit to military government.

They can never surrender the trial by jury.

They can never consent to hold their property subject to the arbitrary control of any man.

They can never surrender those other essential rights of freemen which are guaranteed by the State and General Constitutions, which their fathers fought to maintain and which, when the occasion calls for it, they will also know how to defend.⁴⁰

Because of its influence on other, places the Boston town meeting of January 23 and 24, 1809, will be considered in some detail. This meeting was called in Faneuil Hall on January 23, but on the first day, after a moderator had been chosen, resolutions had been considered, and a committee had been appointed, adjournment was made until ten o'clock the next morning. On that day resolutions were read and accepted by a large majority. They were addressed to the Senate and House of Representatives of the Massachusetts legislature. They asked the legislature to request the national government to remove the embargo laws which were "subjecting the coasting trade to embarrassments which threaten its annihilation." After reminding the legislature that all powers not expressly delegated to the general government were reserved to the state, the memorial continued:

We submit to the consideration of the Legislature, whether this most important maxim has not been violated, by the passing of an Act, in the first instance permanently prohibiting foreign commerce, and thus subjecting this all important object of the National Government, to the pleasure of the Executive and one-third part of the Senate. So extravagant an Exercise of Power was calculated to excite jealousy and alarm, and to rouse a spirit of opposition among the people of thousands of whom it may be affirmed *that their house is on the Ocean*, and with respect to *all* of whom, it is certain, that their prosperity, by the unchangeable circumstances of local situation, immemorial habits, and the established relations of society, is absolutely dependent on Commerce.

Your Memorialists were not, however, swift to condemn,—nor rash to violate the provisions of the first act; they were on the contrary disposed to acquiesce in a measure which, though beyond their comprehension, might have originated in circumstances not disclosed to them. They trusted to the assurances of the Executive Message that it was merely a measure of

⁴⁰ *Ibid.*, pp. 1779-1789.

precaution; and to the imperious necessities of the Nation, that its duration would be short. But as the projectors of their experiment advanced to the maturity of their system, the mask was gradually lifted; and while official communications at home and abroad, insisted upon the merely pacific, and preservative character of the Embargo Laws, it was disclosed from other sources, that their true features were those of hostility and coercion; and the Administration, and their friends no longer conceal that the Embargo is "War in disguise," and is soon to be followed by *open War*.⁴¹

In the next place, the memorial condemned the pride and poor judgment that thought our commerce was necessary to foreign nations. It contended that the measure was perhaps not "unacceptable" to Great Britain, for it had taught her colonies that they were independent of the United States and had stimulated them to successful competition with the new republic. The abandonment of the ocean, the remonstrance urged, was a substantial compliance with the demands of France and hence had received the approbation of Napoleon. As a measure of coercion the embargo was declared impotent against Great Britain and France, but fraught "with absolute destruction" towards the United States. The supplemental act just passed was declared "repugnant to the Constitution and to the first principles of free government."

Under colour of this Law, [read the memorial], a citizen is subjected to penalties and forfeitures, though not privy to any breach of its provisions. He may be charged with and convicted of crimes and offences, though innocent of intentions to commit them. He is subject to unreasonable searches and seizures of property, upon mere suspicion of an intention to violate the Law, and the discretion of an interested officer is the standard by which the reasonableness of the suspicion must be tested. His Vessels, his Warehouse, the most secret, and sacred depositories of his property and effects, *not excepting his Habitation*, are liable to be ransacked, upon mere suspicion, by a military force under general instructions from the President of the United States; and when by *the act of God*, he is prevented from complying with the requisitions of the statute, he is deprived of the benefit of his tryal by Jury (unless he can furnish a species of evidence, which will be in most cases impossible) and must rely for mercy upon the mere will and pleasure of an individual dependent on Executive favour.⁴²

⁴¹ *A Volume of Records Relating to the Early History of Boston Containing Boston Town Records, 1796 to 1813*, pp. 240, 241.

⁴² *Ibid.*, p. 242.

The memorial then affirmed that war was the intention of the government and raised the question as to which nation would be fought. Though possibly commenced against both, the remonstrance stated, war would soon be continued against one only, Great Britain, and probably in alliance with the other, France. In such a case, the memorialists declared, every success should "be deplored as a defeat," and "ultimate success would be certain ruin." The memorial asked the legislature to take any steps it saw fit to obtain the repeal of the embargo and prevent war; it pledged, moreover, its support in advance, of any measures the legislature might see fit to adopt.⁴³

Captain Daniel Sargent then arose and offered additional resolutions which were passed without debate. The embargo was declared in "many respects repugnant to the Constitution of the United States, the State Constitution, and to the fundamental principles of all free Governments." The basis for this opinion was set forth in detail and the resolutions followed:

Therefore, Resolved, That we will not voluntarily aid or assist in the execution of the Act passed on the ninth day of this month, for enforcing the several Embargo Laws; and all those who shall assist in enforcing on others the arbitrary and unconstitutional provisions of this act, ought to be considered as enemies to the constitution of the United States and of this state, and hostile to the Liberties of this people.

Resolved, That the raising of a large standing Army in a time of profound peace with the name and title of "*Volunteers*" for the purpose of enforcing Arbitrary and unconstitutional Laws, and the attempt to place the Military above the civil authority—though it cannot overaw or dismay this *great and powerful* People—yet must be considered as dangerous to Liberty and ought to call forth the most pointed disapprobation of all its friends.

Resolved, That the example given by that veteran Soldier Gen. Lincoln & other undeviating Patriots, in resigning Offices intended to be prostituted to subserve the purposes of oppressing the citizens and enforcing arbitrary edicts, ought to be imitated by all Public officers, and that the Inhabitants of this Town consider it an highly honourable sacrifice of individual emolument to Public welfare. Voted that these Resolutions be adopted by the Town and printed in the public Papers.⁴⁴

The clamor coming from embargo opponents should not, how-

⁴³ *Ibid.*, pp. 243, 244.

⁴⁴ *Ibid.*, pp. 244, 245. General Benjamin Lincoln is the one meant. He was collector of the port of Boston and not lieutenant-governor.

ever, blind us to the fact that even after the passage of the odious enforcement act of January 9, 1809, friends of the administration held meetings in its support. Only four of these will be noted, but all four were important. Five or six thousand Republicans met in the park at New York City and voted confidence and support in the administration.⁴⁵ A Philadelphia town meeting of January 24, passed resolutions in support of the embargo. One of these read:

Resolved, That the embargo is a measure of prudence, policy, and patriotism—has our entire approbation, and that, in our opinion, had it been rigidly observed, it would have produced all the good hoped for by its friends, and have prevented the necessity of a recurrence to any other means to ensure justice from the belligerent nations.⁴⁶

Baltimore citizens to the number of five thousand passed resolutions approving the embargo and the administration. In addition they gave an interesting comment on the condition of the country by adopting resolutions in condemnation of measures unauthorized by the Constitution and pledging themselves to "resist to extremity, any attempts to dissolve the union of these states, the basis of our unrivaled prosperity."⁴⁷

On February 20, 1809, the Republicans of Pittsburgh upheld the administration, condemned Pickering, Gardenier, and Quincy by name and others by implication as meriting "warmest indignation" for encouraging belligerents to violate our rights. One resolution read:

Resolved, That the embargo was the wisest measure which under existing restrictions of the rights of neutrals by G. Britain and France, could be opposed to the unjust edicts of those nations; and that so far its consequences have been highly beneficial, inasmuch as it has preserved an immense capital belonging to our merchants from the grasp of the robbers of the ocean, and given time for offensive and defensive operations; and convinced the tyrants of the sea and land, that the American people will suffer every privation rather than submit to the tyranny and injustice of any power on the globe.⁴⁸

Naturally, the state legislatures were at times forced to take

⁴⁵ *National Intelligencer*, February 1, 1809.

⁴⁶ *Ibid.*, January 30, 1809.

⁴⁷ *Ibid.*, February 1, 1809.

⁴⁸ *Ibid.*, April 12, 1809.

action either for or against the embargo. On November 15, 1808, a committee of the Massachusetts legislature asked for the repeal of the embargo laws; the legislature approved the petition and a copy was sent to Congress.⁴⁹

Levi Lincoln, lieutenant governor of Massachusetts and acting governor since Sullivan's death delivered a speech to the legislature on January 2, 1809, in support of the national administration and derogatory of excitable town meetings.⁵⁰ He denied the prevalent reports that the administration and southern people were unfriendly to commerce, though he disclaimed any intention of questioning the motives of others. He praised the talents, zeal, and work of the party in power, but declared: "Misrepresentations, groundless suspicions, violent and indiscriminate abuse, unless checked, must end in opposition to the law, contempt for its authority and distracted breaches of the public peace."⁵¹ The Senate, on February 3, passed resolutions objecting to Lincoln's message.⁵²

On February 1, Lincoln issued a proclamation in pursuance of the act of January 9, 1809, calling upon certain officers and the militia to execute more effectually the embargo law.⁵³ A committee of the House reported unfavorably on this proclamation, and the report was accepted by a vote of 173 to 104.⁵⁴ The report was:

Wherefore resolved—That in the opinion of this house, the said military orders of the 1st of February instant issued by his honour Levi Lincoln, lieutenant governor and commander in chief of the commonwealth, are irregular, illegal and inconsistent with the principles of the constitution; tending to the destruction of military discipline, an infringement of the rights, and derogatory to the honour of both officers and soldiers; subversive of the militia system, and highly dangerous to the liberties of the people.⁵⁵

A memorial and remonstrance of the Massachusetts legislature was prepared and sent to Congress. It pointed out the

⁴⁹ *Annals of Congress*, Vol. 19, pp. 128, 129.

⁵⁰ *American Register*, Vol. V, pp. 183-191.

⁵¹ *Ibid.*, p. 187.

⁵² *Ibid.*, pp. 191-196.

⁵³ *Ibid.*, pp. 196, 197.

⁵⁴ *Ibid.*, pp. 197-202.

⁵⁵ *Ibid.*, p. 201.

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⁵¹ *Ibid.*, p. 187.

⁵² *Ibid.*, pp. 191-196.

⁵³ *Ibid.*, pp. 196, 197.

⁵⁴ *Ibid.*, pp. 197-202.

⁵⁵ *Ibid.*, p. 201.

dangerous powers exercised through the embargo, showed the harmful effects exercised on commerce, declared that farmers and sailors could not by an act of government be converted into manufacturers, urged that merchants and mechanics would never consent to retire from the seashore to the interior of the country, and insisted that the history of the world showed that even the most despotic of governments hardly ever succeeded in changing the habits of a people. The remonstrance then condemned the changing instructions given by the president for former standing laws, the "indefinite and almost unlimited authority" given to customs officers, and the excessive sureties, fines and penalties imposed. It referred to the past patriotism of Massachusetts, repelled charges against her loyalty, and insisted that France was the principal aggressor, while Great Britain had shown a tendency to cultivate a friendly understanding.⁵⁶

On February 4, 1809, Governor Trumbull of Connecticut had answered the Secretary of War's letter concerning embargo enforcement in part as follows:

I have received your letter of the 18th January, conveying to me a request of the president of the United States, that as commander in chief of the militia of the state, I would appoint a select number of officers of our militia, to whom the collectors of the customs may apply for military aid in certain cases, which may *by them*, be thought necessary for compelling obedience to the laws of Congress enforcing the embargo.* * *

I have reflected that neither the constitution nor statutes of this state, have given to the commander in chief of its militia, any authority to make such appointment of officers as has been requested; nor does my information suggest to me, any authority given to the president of the United States derived either from the constitution or laws of the United States, to call upon the executive of an individual state to take an agency in appointments, such as are contemplated by the request mentioned.

Conceiving also as I do, and believing it to be the opinion of the great mass of the citizens of this state, that the late law of Congress for the more rigorous enforcement of the embargo is *unconstitutional* in many of its provisions, interfering with the state sovereignties, and subversive of the guaranteed rights, privileges and immunities of the citizens of the United States; I have from these considerations deemed it peculiarly and highly improper for a state executive to contribute his *volunteer* aid in support of laws bearing such an aspect.⁵⁷

⁵⁶ *Ibid.*, pp. 202-208.

⁵⁷ *Ibid.*, p. 178.

The governor, on February 25, asked a special session of the legislature to consider the embargo laws by committee. He referred to the numerous petitions and resolutions drawn up by town meetings, the apparent permanency of the embargo laws, and the "many very extraordinary, not to say unconstitutional provisions" for the execution of the act of January 9. He pointed out the dangerous state of the country and asked the legislature "to devise such constitutional measures as in their wisdom" might "be judged proper to avert the threatening evil."⁵⁸ The legislature reported the expected resolutions in support of the state government and in condemnation of the embargo laws. The following extract summarizes, in part, the attitude of the Connecticut law makers:

After solemn deliberation and advisement thereon, the general assembly are decided in the opinion, and do resolve, that the acts aforesaid are a permanent system of measures, abandoning undeniable rights; interdicting the exercise of constitutional privileges, and unprecedented in the annals of nations; and do contain provisions for exercising arbitrary powers, grievous to the good people of this state, dangerous to their common liberties, incompatible with the constitution of the United States, and encroaching upon the immunities of this state.⁵⁹

The resolutions of the Delaware House failed of adoption because the Senate refused to agree without modification. These proposed changes the House refused to accept; hence the matter was dropped. Rhode Island, apparently the last state to attack the embargo, passed resolutions against it in both houses on March 4, 1809, but by the close vote of 7 to 4 in the upper house and 35 to 28 in the lower.⁶⁰

Outside of New England, Delaware, and New York, these resolutions excited little sympathy. In fact, a resolution of Massachusetts proposing to amend the United States Constitution so that no embargo could suspend commerce for more than thirty days after the opening of the season of Congress succeeding the one passing it was expressly disapproved by nearly all the states during 1809 and 1810, including North Carolina,

⁵⁸ *Ibid.*, p. 176.

⁵⁹ *Ibid.*, p. 180.

⁶⁰ Ames, H. V., *State Documents on Federal Relations*. This is a University of Pennsylvania study and gives excellent source material on embargo relations, pp. 26-44.

Maryland, Georgia, New Jersey, Delaware, and New Hampshire.⁶¹

North Carolina represented the typical attitude south of New York. Even before the strong action of Connecticut and Massachusetts, the Senate of North Carolina, November 29, 1808, approved the measures of the national government, though apparently this approval was not formally voiced until December 5. The preamble to the act expressed fear that the "great clamor" against some of the government acts might cause foreign nations to think that the United States was divided. Three of the seven resolutions, the fourth, fifth, and sixth, related specifically to the embargo. The fourth and sixth read:

Resolved, That, though the laws laying an embargo have borne hard upon a great part of the citizens of the United States, the Legislature of North Carolina consider them as the best means which could have been devised to preserve our citizens and property from the devouring grasp of the belligerent powers. * * *

Resolved, That sooner than submit to unjust and vexatious restrictions on our commerce; to the impressment of our seamen; and to the taxation of the cargoes of our vessels, at the pleasure of foreign nations, we will live to ourselves, and have no connexion with any of them.⁶²

Even in New England there was some support for Jefferson's administration. Thus the New Hampshire House voted: "In reviewing the measures of the national administration, we *remain* satisfied that they are the result of wise deliberations. The embargo laws, especially we consider as a wise expedient which has saved the country an immense property; and thousands of citizens." The Senate, which, by the way, was composed of nine Republican and three Federal members, voted stronger approval: "We cannot but think that the finger of Heaven pointed out the Embargo, as the only measure Congress could devise, which could comport with the safety, honor and independence of our country."⁶³

The West generally supported the administration. Thus the General Assembly of Kentucky with one dissenting vote in the

⁶¹ *Pennsylvania Archives*, Fourth Series, Vol. IV, *Papers of the Governors*, 1795-1817, pp. 690-740.

⁶² *American State Papers*, Class X, *Miscellaneous*, Vol. I, pp. 944, 945.

⁶³ *National Intelligencer*, December 12, 1808.

House and three in the Senate adopted resolutions of support and endorsement.⁶⁴

The Virginia resolutions of February 7, 1809, in referring to the expediency of the embargo said:

If it has failed, in any degree, as a measure of constraint, your committee believe that it is not because our enemies have not felt its force, but because they believe we have felt it too sensibly; because the unfortunate opposition which the measure has met in some parts of the union, has inspired them with a fallacious hope that we ourselves either could not or would not bear its privations.⁶⁵

Opposition to the embargo was carried to the extent of threats of disunion. On March 10, 1808, Christopher Gore wrote to Rufus King that a frequently discussed question was whether the states east of the Delaware would not combine in an effort to prevent war with Great Britain. Another question considered, he said, was the calling of a convention of merchants to deliberate on their embarrassments in consequence of the embargo.⁶⁶

For some time John Quincy Adams had expressed a fear that civil war might result from the embargo.⁶⁷ On December 8, he wrote to Orchard Cook that a continuance of the embargo might mean a civil war, which was more dangerous than a foreign war.⁶⁸ This change in Adams' feelings was very pronounced, for on August 22, he had written Cook that the embargo though "beyond all question a distressing calamity" to the country, was, in comparison with war either with England or France, as "no more than the bite of a flea to the bite of a rattlesnake."⁶⁹

On December 15, 1808, H. G. Otis wrote to Josiah Quincy, and gave an early reference to a Hartford convention:

"...What then shall we do? In other words, what can Connecticut do? For we can and will come up to her tone. Is she ready to declare the Embargo and its supplementary chains unconstitutional,—to propose to their State the appointment of delegates to meet those from the other commercial States in convention at Hartford or elsewhere, for the purpose

⁶⁴ *Ibid.*, January 23, 1809.

⁶⁵ Ames, H. V. *State Documents on Federal Relations*, p. 431.

⁶⁶ *Life and Correspondence of Rufus King*, Vol. V, p. 88.

⁶⁷ See his letters to Orchard Cook, August 22, 1808, to William Branch Giles, November 15, and to Ezekiel Bacon, November 17, in *Writings*, Vol. III, pp. 240-251.

⁶⁸ *Ibid.*, pp. 260-262.

⁶⁹ *Ibid.*, p. 240.

of providing some mode of relief that may not be *inconsistent with the union of these States*, to which we should adhere as long as possible? Shall New York be invited to join? and what shall be the proposed objects of such a convention?"⁷⁰

On November 30, Sir George Prevost addressed thirty-six questions to his agent, John Howe. The seventeenth referred to the political situation in New England. The agent in answering it declared that if the English government did not let the United States out of their own trap, "not a doubt" could "be entertained but that a separation of the Eastern States" would ensue unless the embargo were repealed. If the English answer did not suit, Howe held, the Republicans would try to provoke a war with England to save the union.⁷¹

On January 3, 1809, President-elect Madison, a calm and trained observer, said that the impatience under the embargo, especially in Massachusetts, was becoming "extremely acute" under the artificial excitements given to it, and that a preference for war within a very limited period was "everywhere gaining ground."⁷²

President Dwight of Yale College about the same time preached on the text "Come out therefore from among them, and be ye separate, saith the Lord."⁷³

Newspapers had long been commenting on the danger of separation. A Boston paper declared on April 1, 1808:

The citizens of Massachusetts are now called upon, not to endure the evils accidentally resulting from a system of conduct suggested by a watchful solicitude for the general prosperity, but to approbate a course of policy, consistent with our present democratic administration, which threatens the republic with all the horrors of a war, which has already diffused distress over the whole country by a ruinous *Embargo*, and which seems to meditate a total annihilation of commerce. If we rise up, to a man, and express our detestation of these measures, we may escape the misery that is yet in reserve. But if we reelect those officers who have thanked Congress for the Embargo, we may rest assured, the Embargo will be continued, till we are heartily sick of it. It is surely a *strong* measure. It

⁷⁰ *Life of Josiah Quincy of Mass.*, by his son Edmund Quincy, p. 165.

⁷¹ "Secret Reports of John Howe," *American Historical Review*, Vol. XVII, p. 349.

⁷² *Writings of James Madison*, Vol. VIII, p. 42.

⁷³ Morison, S. E., *Harrison Gray Otis*, Vol. II, p. 8.

is strong as death, and voracious as the grave. If we do not cure the disease in its early stage, it may require a desperate remedy.⁷⁴

The *Republican Crisis*, a New York paper, in an inflammatory article, compared conditions in Jefferson's administration with conditions in former times. It said, in part:

We are now (shame to its coward authors!) in spirit and in measure, sunk below contempt—Then, the nation which dared insult or injure us, 'though oceans rolled between,' *felt* our remonstrance and rendered justice. —Now, to shun the *occasion*, we are compelled by our wonderful administration, to abandon the ocean, and to break off all commerce with the rest of the world; like a spiritless, contemptible *spaniel* yelping his own disgrace as he seeks for safety in the *dignified retirement* of his kennel.—Genius of America! Whither art thou fled!

Tell me not that the *Embargo*, and the Non-Intercourse system are measures of wisdom or necessity—for they are neither—ask the *merchants*, (whose interests are most affected,) whether they thank the President for saving their property by the Embargo!—with united voice they will exclaim No—Ask the Farmers of this fruitful land, if they will fall down and worship this great Idol, the Embargo, for *their* share of untold blessings!—with imprecations they curse the measure, or point, in sullen silence, to the wretchedness and woe which it has brought upon them. Ask the honest, the industrious Mechanick to recount the *mighty comforts* which Mr. Jefferson's Embargo has scattered in his path? he tells you, he is out of employ—his wife and children dearer to him than life, are pinched with hunger and he, wretched man! must be dragged to prison the next hour!!! O, blessed Embargo! "more popular than any other measure taken by the republican administration," says the *National Intelligencer*, the Presidential Bagpipe at Washington—"Encore," cries that faithful echo, the *Albany Register*, "the Embargo is proved to be more popular than any other measure taken by the republican administration!!!"

People of America! how long will ye suffer such gross indignities to your understanding! Such mad violations of your rights and interests!⁷⁵

A writer, using the pen name of Phocion published a strong article in *Jackson's Political Register*. Two short paragraphs follow:

From Maine to Orleans, the merchant, the farmer, the mechanick and the labourer, are suffering the pressure of want that some few high in office may preserve the favor of their trans-atlantick master. . .

How long, Americans, will you suffer this? How long shall your country be debased and degraded in the eyes of Europe—the very name of America be a term of reproach? I feel that you will not endure it longer.

⁷⁴ Boston *Gazette*, April 1, 1808.

⁷⁵ Quoted in Boston *Reperetory*, May 31, 1808.

The day of retribution is at hand, and your betrayers will soon find to their sorrow, that the American spirit has only slumbered, but is not yet extinguished. It will rise with renewed vigor, and overwhelm them with shame and disgrace.⁷⁶

Administration papers freely admitted the growing opposition to the embargo and the threats of disunion. One of these on October 13, published a department known as "Bold Language" which contained extracts taken from late Federal Papers. Several follow:

Every man will presume that he is not bound to regard it [the embargo], but may send his produce or his merchandise to a foreign market, *in the same manner as if the government had never undertaken to prohibit it*—Boston Centinel.

We know that if the Embargo be not removed our citizens will ere long set its restrictions and its penalties at defiance.—No Republican government can constitutionally ruin its citizens, charged with no crime. This will remove scruples of conscience, *and the people will trade.*—Boston Reperetory.

It behooves us to speak, for Strike we Must, if speaking does not answer—Boston Reperetory.

There are thousands every day denouncing the claims made upon that nation (the English) as unjust and unreasonable, and openly declaring that it is our true policy to rescind those claims, take protection under the British navy, and unite with her against the the Emperor of France—New York Herald.

It is better to suffer the amputation of a limb than to lose the whole body. *We must prepare for the operation.*—Boston Gazette.⁷⁷

Five articles, signed "Falkland," discussed "A Separation of the states; and its Consequences to New England."⁷⁸ A Richmond paper, a supporter of the administration, accused the Federalists of wanting a separation of the union.⁷⁹ A Newburyport circular, widely copied by administration papers, concluded:

The day of political probation is fast verging to a close; when the fate of America will be decided, and the laurels bought with the price of freemen's blood, will grace the brows of the Gallic tyrant. Let every man who holds the name of America dear to him, stretch forth his hands and

⁷⁶ Quoted in *Boston Reperetory*, June 3, 1808. See also *Connecticut Courant*, June 29, 1808.

⁷⁷ Quoted in *Newburyport Statesman*, October 13, 1808.

⁷⁸ *Boston Columbian Centinel*, September 10, 14, 17, 24 and October 1, 1808.

⁷⁹ *Richmond Enquirer*, November 1, 1808.

put this accursed thing, this *Embargo* from him. Be resolute, act like sons of liberty, of God, and your country; nerve your arm with vengeance against the Despot who would wrest the inestimable germ of your independence from you—and you shall be *Conquerors!!!*—And all the People shall say Amen.⁸⁰

One of the radical Boston papers published the following item in January:

Americans!

Your dearest Rights and Liberties are in jeopardy. The Decree of Slavery has been issued; and Fifty Thousand mercenaries are to be embodied to execute an odious Embargo Law at the point of the bayonet.

Americans!

A venal faction—the slaves and apologists of the bloody Tyrant of *Europe*—have the folly to attempt riveting on you the galling fetters of Slavery. Will you tamely submit to this yoke? No! Act then with firmness and moderation. Leave vamping and bullying to your adversaries.—Ascertain your Rights; and defend them as becomes men who know their privileges, and will never shrink from their duties.⁸¹

An editorial, “Government! Or Rebellion” in an administration newspaper declared a few days later:

When the standard of rebellion shall be unfurled in the North, and a British commissioner, like Lord Hutchinson, shall be landed on our shores, to see the rebel troops in the field, and to distribute the subsidy of cash, then the whole mystery of federal mercantile opposition, and British intrigue, will be unravelled.⁸²

A Danville, Vermont, paper a few days later declared:

Seeds of Insurrection!

Till this period we had not entertained any serious fears of a rebellion against the laws of our country—but we are constrained now to state with much concern that the prospects of such an event are truly alarming. Several of the eastern federal prints have published the late act for enforcing the Embargo, (which will appear in our next) with their papers dressed in mourning, and have annexed to that Law the funeral obsequies of Liberty in regular procession!! Subjects of such importance and solemnity are not to be trifled with. For Heaven’s sake let us pause, and consider the calamities of civil war. . .⁸³

In support of this view the editor then quoted from the *Boston Courier* and the Northampton *Anti-Monarchist*, the former de-

⁸⁰ Baltimore *Evening Post*, December 1, 1808.

⁸¹ Boston *Columbian Centinel*, January 21, 1809.

⁸² Northampton *Anti-Monarchist and Republican Watchman*, January 25, 1809.

⁸³ North *Star*, January 28, 1809.

claring: "There appears to be a preconcerted plan among the federalists in this section of the union, to effect open rebellion against the general government. . ."; and the latter stating:

There is a prospect that New England will become a theatre of hostile operations against the government of the United States, and the integrity of the Union. . .

This project, foul, abominable, and murderous as it is, is now agitated in federal caucuses. It has become the topic of common conversation with leading federal men.⁸⁴

A month later a Boston paper urged: "Americans! Arouse from your lethargy. Act like men for your country; and swear that that country shall never be the '*Slave*' which Washington declares it must be, if men with *inveterate* antipathies against one nation, and '*passionate attachments*' for another, are permitted to guide your councils."⁸⁴ The next day another Boston paper, this time an administration paper, made the following statement: "A handbill, circulating in Connecticut, recommends a connection between the New England States, Canada and Nova Scotia, *for the protection of commerce!*"⁸⁵

Possibly one of the most insulting and threatening of the town resolutions, those of Gloucester, appeared in a Boston paper of February 24, 1809. The words, in part, follow:

"We see not only the purse-strings of our nation in the hands of a Frenchified Genevean, but all our naval forces and all our militia placed under the control of this same foreigner, whom we cannot but think a satellite of Bonaparte. . . In our opinion the national Cabinet has given to this country and the world the most indubitable evidence of their insincerity; that their great study has been to involve this country in a war with Great Britain, and of course to form a coalition with France, regardless of consequences. Their pledges to France of their willingness to submit to the wishes or mandates of the Corsican have been satisfactory. . . We should deprecate a separation of the States and would resort to every honorable means of redress before we would seek relief in a dissolution of the Union. . . Our Administration can dissemble their real motives no longer; our dreadful forebodings prove realities; the expected blow has reached us, and by it has fled our liberty."⁸⁶

The attitude of the people, of course, was reflected in the speeches of their representatives in Congress. These often con-

⁸⁴ Boston *Columbian Centinel*, February 22, 1809.

⁸⁵ *Independent Chronicle*, February 23, 1809.

⁸⁶ *New England Palladium*, February 24, 1809.

tained, as previously intimated, scarcely veiled threats of disunion. Debates waged bitter on the enforcement bill, and even more so after its passage. Only two of the Senate speeches in favor of the repeal of the embargo will be considered—one delivered by J. A. Bayard of Delaware, and the other by James Hillhouse of Connecticut.

The former, in the course of a lengthy discourse,⁸⁷ delivered February 14, 1809, on the partial repeal of the embargo, reviewed the orders and decrees of the belligerent nations, and re-stated the familiar objections to the embargo policy. In the course of his address he declared:

We all know that the opposition to the embargo in the Eastern states is not the opposition of a political party, or of a few discontented men, but the resistance of the people to a measure which they feel as oppressive and regard as ruinous. The people of this country are not to be governed by force, but by affection and confidence. It is for them we legislate; and if they do not like our laws, it is our duty to repeal them.⁸⁸

A week later, February 21, Senator Hillhouse of Connecticut, in discussing non-intercourse, referred to the sufferings of the laborers due to the embargo.⁸⁹ He held that in spite of the disinclination of the people to seek relief at the poor *house*, hundreds of applications for admission at New Haven had been turned down, when, ordinarily, the poor house would accommodate three times the number of people in it. He maintained that such sufferings were common in all commercial towns. In Baltimore, he said, examiners found conditions "truly distressing to the feelings of humanity, both as to their numbers and their necessities." In Philadelphia, he urged, the Marine Society found "upward of one thousand objects of charity, who, from a state of comfort, have been reduced to the lowest abyss of poverty."

After Hillhouse had concluded, the vote was taken on the bill which was entitled, "An act to interdict the commercial intercourse between the United States and Great Britain and France, and their dependencies, and for other purposes." The measure was passed 21 to 12. The negative votes were cast

⁸⁷ *Annals of Congress*, Vol. XIX, pp. 388-409.

⁸⁸ *Ibid.*, p. 403.

⁸⁹ *Ibid.*, pp. 424-436.

by Bayard and White of Delaware, Crawford of Georgia, Gilman and Parker of New Hampshire, Goodrich and Hillhouse of Connecticut, Lloyd and Pickering of Massachusetts, Reed of Maryland, Sumter of South Carolina, and Turner of North Carolina.⁹⁰ The majority of these men, it should be noted, were opponents of the embargo system.

In the House, on January 16, 1809, a bill for the relief of sick, disabled, and distressed seamen was read for the third time and passed by a vote of 66 to 30. Some speakers, as Burwell of Virginia, had on the 14, opposed the measure on the score that seamen were no more entitled to relief than other sufferers from the embargo.⁹¹ In the Senate, the measure was amended and its consideration indefinitely postponed.⁹²

On January 19, Nathaniel Macon of North Carolina admitted the bad effect of the embargo on the South, for southerners did not want produce left on their hands to rot. He insisted that the South was suffering for maritime rights, for as growers it was immaterial in point of interest into what ship or wagon their produce found its way. We are contending, he urged, for our mercantile brethren of the North.⁹³

On January 30, the House took up in earnest the debate on the following resolution submitted by W. C. Nicholas of Virginia a few days previously:

Resolved, As the opinion of this House, that the United States ought not to delay beyond the.....day of.....to repeal the embargo laws, and to resume, maintain, and defend, the navigation of the high seas, against any nation, or nations, having in force edicts, orders, or decrees violating the lawful commerce and neutral rights of the United States.⁹⁴

William Milnor of Pennsylvania made a motion to take the question first on repealing the embargo, and to fill the blank with "fourth day of March", but John Randolph of Roanoke wanted an immediate repeal. He declared that the embargo was daily and hourly disregarded, that sleighs passed from the

⁹⁰ *Ibid.*, p. 436.

⁹¹ *Ibid.*, pp. 1073-1077.

⁹² *Ibid.*, pp. 322-328.

⁹³ *Ibid.*, p. 1103.

⁹⁴ *Annals of Congress*, Vol. XIX, p. 1230.

United States into Canada loaded with the products of all parts of the Union.⁹⁵

D. R. Williams of South Carolina, in the course of an impassioned speech on the same day, said:

The excitement in the East render it necessary that we should enforce the embargo with the bayonet or repeal it. I will repeal it—and I could weep over it more than over a lost child. . . Sir, if gentlemen will not support us in a war, and I give fair notice that if we take off the embargo I am for war—they must support it, or they will sink the character of the nation. If they will support neither war or embargo, if they destroy the effect of both, I ask you, sir, does not the prostitution of the character of the country lie at their doors? If they mean submission, I will thank them to say so. It somehow or other happens that Republicans are thought to be friendly to France, and Federalists to Great Britain. I believe neither imputation to be correct to the extent to which it is carried. But it is a fact that the British ear is open to that side of the question sooner than to us. Now, sir, I appeal to the minority, who hold the destinies of the nation in their grasp, for they can enforce embargo without the bayonet—I beg them, if they will not declare war, that they will do the best they can for their country. If avarice has so seized on our hearts as to take away wholly the love of country, (and assuredly it has if we submit) for God's sake let me entreat, gentlemen, to make the best terms they can for us, to secure the kind protection of the British Government for us—to procure us the miserable boon that the tax on us may be collected here without compelling us to go to Britain to pay it. Sir, the blood which runs through my veins tells me I was not born to be a British subject; it tells me that the opposition to us must have sucked the same milk—that we are of the same family. Then let us with one heart and hand take hold of war.⁹⁶

On the next day, January 31, John Rhea of Tennessee urged that March 4, rather than June 1, be taken as the date for repeal. This, he declared, would give sufficient time to the merchants, help the farmers, allow the new administration to commence its career with “a new order of things,” and show the nations of the world that we did not intend to abandon the ocean permanently.⁹⁷ On the same day, J. W. Eppes of Virginia pointed out the present opposition of the United States—the insults shown by the belligerents to us and the failure of negotiations.⁹⁷

⁹⁵ *Ibid.*, p. 1230.

⁹⁶ *Ibid.*, pp. 1237, 1238.

⁹⁷ *Ibid.*, p. 1246.

On February 2, the repeal of the embargo was again taken up. The question was the filling of the blank with the first day of June, the fourth day of March, or the fifteenth day of February. Benjamin Tallmadge of Connecticut urged a speedy decision or repeal at an early date on the ground partly of speculation. Repeal, he urged, would cause an increase in the value of articles for export from ten to fifty per cent. Postponing repeal prolonged speculation.⁹⁸ On the same day, Henry Southard of New Jersey, in answer to the gloomy pictures drawn by embargo opponents,⁹⁹ exalted the beneficial effects on manufacturing. He said:

The seed is sown—the germ is already sprung. By means of the embargo we shall reap a permanent good. Many infant manufactories are already established throughout the country, and are rapidly progressing to perfection. Another great advantage will arise by inducing domestic industry. Families will provide themselves with the necessities and conveniences of life, which heretofore they have produced at a great expense, and which manufactures he believed would render the country more independent of foreign nations than anything else which could be devised.¹⁰⁰

On February 2, the House in Committee of the Whole refused by a vote of 73 to 40 to make the date of the embargo's repeal June 1.¹⁰¹ For the next three weeks the repeal of the embargo and the adoption of non-intercourse occupied all the time of the House. No further record of speeches, however, will be given until February 20, save a brief reference to a comment of D. R. Williams of South Carolina, who, on February 17, stated that he was for war if the embargo was to be repealed, and that the people south of the Delaware were for war. "But you have been humbled," he added more courteously than many others had done, "into an acknowledgment of the truth of the declaration that you cannot be kicked into a war, because the Eastern people will not follow you."¹⁰² On February 20, John Randolph of Roanoke, spoke against a vacillating policy. He said:

. . . The motion of the gentleman from Virginia [W. C. Nicholas]—and I beg you, sir, to recollect from whom it came, the influence of that gentle-

⁹⁸ *Ibid.*, p. 1268.

⁹⁹ *Ibid.*, pp. 1230, 1305, etc.

¹⁰⁰ *Ibid.*, p. 1307.

¹⁰¹ *Ibid.*, p. 1328.

¹⁰² *Ibid.*, p. 1450.

man, and his supposed acquaintance and high credit with the Administration—made the prices of commodities start in a night, like mushrooms; sales were made to a great amount; when, on a sudden, as if by the stroke of a torpedo, the proceedings of this House are benumbed. The Committee of the Whole, after the vote to repeal the embargo, is discharged, a recommitment takes place, and what is the result? The mercantile barometer not only went down, but did not stop at the point at which it was before, it fell even lower than ever. It now is fluctuating a little, but it is not up to the point at which it stood when the motion was originally made. Now, suppose a man in the secret, when that motion was made, had sold out, perhaps to the amount of half a million, at an advance of from 25 to 33 1-3 per cent; a few days afterwards he would be able to buy the same commodity at perhaps a price as much below par as he sold it above—making a difference of from 50 to 66 1-2 per cent. Should such gambling be encouraged? The people want to know what way we are going—whether North or South, East or West.¹⁰³

On the same day, G. W. Campbell of Tennessee, spoke in opposition to the repeal of the embargo. In common with D. R. Williams of South Carolina he urged that substitution of non-intercourse for the embargo would relieve one part of the Union and impose the burden on another part. The embargo, he argued, operated equally on the various parts of the Union, but the non-intercourse would press hardest on the southern and western states which were largely dependent upon the immediate exchange of their products for foreign goods. This, he insisted, would throw the carrying trade to the eastern merchants without competition and would place a premium on eastern manufacturers at the expense of southern and western farmers, for since foreign goods were excluded, the eastern states could charge the others any price they wanted for manufactured goods, and those states would have to pay. "Hence," he said, "the non-intercourse would operate partially against the Southern and Western, and completely in favor of the Eastern States, and hence the most cogent reasons I have yet discovered why the Eastern gentlemen are almost to a man in favor of it."¹⁰⁴

A little later, on the same day, Nathaniel Macon, favored the continuance of the embargo as the only alternative to war. He declared in part:

¹⁰³ *Ibid.*, pp. 1474, 1475.

¹⁰⁴ *Ibid.*, p. 1483. The statement just quoted on eastern support proved false.

It has been said, and great pains have been taken to establish the fact that the embargo bears harder upon the Eastern than upon the Southern country. The reverse appears to me to be the fact. Upon the towns it may bear harder than upon the country; but take the nation at large, and the embargo, if gentlemen persist in charging all our evils on the embargo, bears harder on the South than on the East. We lose the capital of the trade, whilst they lose but the profits to be made upon the export and import. Can the profits be equal to the capital? Certainly not.¹⁰⁵

Immediately after the repeal of the embargo and in place of that measure the non-intercourse act was passed. It was entitled "An Act to interdict commercial intercourse between the United States and Great Britain and France, and for other purposes." It opened up trade with other nations, but as stated in the title prohibited trade with the main belligerents. Only the last section of the act, which was approved by Jefferson on March 1, 1809, will be quoted here:

And be it further enacted, That this act shall continue and be in force until the end of the next session of Congress, and no longer; and that the act laying an embargo on all ships and vessels in the ports and harbors of the United States, and the several acts supplementary thereto, shall be, and the same were hereby repealed, from and after the end of the next session of Congress.¹⁰⁶

The non-intercourse measure was passed by a vote of 81 to 40; nineteen members were absent when the vote was taken. Of the latter, five were from Massachusetts, three from Virginia, two each from Pennsylvania and South Carolina, and one each from New Hampshire, Connecticut, New York, Ohio, Tennessee, North Carolina, and Georgia. Williams of South Carolina and Campbell of Tennessee, both of whom had fought long and hard for the embargo, were among those absent. They in common with others probably, for all did not have legitimate reasons, hated to see the death of a favorite child. Of the forty votes cast in opposition to the non-intercourse act, six each came from Connecticut and Pennsylvania, five from Virginia, four each from Massachusetts and North Carolina, three from New York, two each from Vermont, South Carolina, and Georgia, and one apiece from New Hampshire, Rhode Island, New Jersey, Dela-

¹⁰⁵ *Ibid.*, p. 1490.

¹⁰⁶ *Ibid.*, p. 1830.

ware, Maryland, and Kentucky.¹⁰⁷ It is thus apparant that sentiment was divided. Many Southerners opposed the non-intercourse; others favored it in an effort to retain as much of the embargo policy as possible. As in the Senate, many strong opponents of the embargo, such as Dana and Tallmadge of Connecticut, Gardenier of New York, Quincy of Massachusetts, and others voted against the non-intercourse act, since they considered a partial repeal only as a compromise which was in reality a triumph for the administration.

Federalist newspapers did not regard the repeal of the embargo with unmixed satisfaction, for non-intercourse was substituted. An item in a Boston paper of March 8, 1809, written, however, before the repeal, read:

The miserable Embargo system is to be partially repealed on Wednesday next; although it is to be accompanied and coupled with a measure equally as unjust, equally as foolish, stupid and unavailing, as the original Embargo; and which its insane authors will be compelled to abandon with the same mark of folly, the same portion of disgrace and derision; which has attached to their Embargo conduct. Commiseration with our suffering fellow countrymen in various parts of the community; and hoping that this measure of repeal; partial as it is, will operate to remove a part of the oppressive burdens which have near crushed them, we thank heaven for even this scanty boon. . .¹⁰⁸

Another Boston paper, dated two days later, condemned the non-intercourse act as a "deceptive and wicked law."¹⁰⁹ A New York paper on the following day opposed the non-intercourse bill as the "most contemptible piece of knavery" ever passed by any administration and intended to bring war with Great Britain.¹¹⁰ A Connecticut paper declared four days later: "Our weak and wicked administration were so frightened by the Legislatures of Connecticut and Massachusetts, that they have relinquished the embargo and substituted non-intercourse. Do these poltroons suppose that the people will not discover their folly and cowardice?"¹¹¹

Another New England paper declared a week later:

¹⁰⁷ *Ibid.*, p. 1541.

¹⁰⁸ *Columbian Centinel*, March 8, 1809.

¹⁰⁹ *Reperstory*, March 10, 1809.

¹¹⁰ *New York Herald*, March 11, 1809.

¹¹¹ *Connecticut Courant*, March 15, 1809.

The *Baltimore Whig*, one of the most furious of the Democratic papers, speaking of the late session of Congress says, '*The contradictory measures of this session defy all national investigation; they are too childish to be ridiculed, and too trifling to be despised.*' This is too true; in addition to all the other evils of the Embargo, it has cost the country near 200,000 dollars to pay the members of Congress for debating upon, and wrangling about it. . .¹¹²

The same paper, after commenting on the provisions of the non-intercourse bill, declared: "Such are the leading features of this odious law; which cannot be called a repeal of the embargo, but a mere *take in* of the public; for of all the important places in the windward or leeward Islands, St. Bartholomew only is open to us."¹¹³

A different view of the matter was taken in an article in a Baltimore paper of earlier date. This article insisted that while trade was prohibited with France, the part of Italy under Napoleon's control, the British Isles, and Gibraltar it was open in Russia, Sweden, Denmark, Prussia, Turkey, Germany, the Hanse Towns, Holland, Spain, Portugal, Sicily, and all other parts of the world "*not subject to or in possession of Great Britain or France.*"¹¹⁴

Another administration paper published in Newburyport, Massachusetts, charged the Federalists with inconsistency. One item read:

Every day gives further proof that the only principle of action with the leading federalists of the day, is *opposition to whatever course our government may pursue.* Their objection now is, that the embargo is about to be taken off in wrath to punish the eastern states by the vexation and loss which will attend whatever may be risked on the high seas.¹¹⁵

A Vermont paper repeated the charge: ". . . The federalists, who have continually clamored against the continuance of the embargo, invariably voted against its repeal in both houses. What kind of *consistency* is this?"¹¹⁶

Josiah Quincy, who believed the partial repeal a Jeffersonian victory, wrote to a friend on February 29, two days after the

¹¹² *Massachusetts Spy, or Worcester Gazette*, March 22, 1809.

¹¹³ *Ibid.*, March 22, 1809.

¹¹⁴ *Baltimore Evening Post*, March 8, 1809.

¹¹⁵ *Statesman*, March 9, 1809.

¹¹⁶ *Danville North Star*, March 18, 1809.

repeal: "Jefferson has triumphed. His intrigues have prevailed, Non-Intercourse will be substituted for Embargo. The Non-Intercourse bill passed 81 ayes, 40 nays, all the Federalists voting against the bill, except Taggart and Livermore."¹¹⁷

The view just quoted from Quincy, however, was incorrect. The embargo was repealed to avoid civil war. Jefferson gave in only as a sort of necessary compromise. A party revolt was inaugurated by Joseph Story and Ezekiel Bacon. Numerous quotations showing the danger of a civil war have already been given; a few more will now be cited. On January 4, 1809, Joseph Story wrote to a friend that the "Essex junto" had resolved to separate the eastern states from the Union, and if the embargo continued the plan might be supported by the yeomanry.¹¹⁸ On January 24, William Plumer wrote to Nicholas Gilman, a New Jersey senator, that there appeared to be a spirit hostile to the existence of our government in New England, "and even in New York," and that people were now conversing on the dissolution of the union, as an event rather to be desired than avoided.¹¹⁹

When Jefferson was a very old man, W. B. Giles, a Virginia senator and administration leader at the time of the embargo, wrote him concerning the repeal, and his own intervention between the president and John Quincy Adams. Jefferson in his reply referred to his poor memory and his failure to recall the intervention, and then passed on to Adams' visit, his apologies, and remarks. He said, in part:

He [Adams] spoke then of the dissatisfaction of the eastern portion of our confederacy with the restraints of the embargo then existing, and their restlessness under it. That there was nothing which might not be attempted to rid themselves of it. That he had information of the most unquestionable certainty, that certain citizens of the eastern States (I think he named Massachusetts particularly) were in negotiation with agents of the British government, the object of which was an agreement that the New England States should take no further part in the war then going on; that, without formally declaring their separation from the Union of the States, they should withdraw from all aid and obedience to them; that their navigation and commerce should be free from restraint and interruption by the

¹¹⁷ *Life of Josiah Quincy*, by his son Edmund Quincy, pp. 185, 186.

¹¹⁸ Plumer, William, *Life of William Plumer*, p. 369.

¹¹⁹ *Ibid.*, p. 368.

British; that they should be considered and treated by them as neutrals, and as such might conduct themselves towards both parties; and, at the close of the war be at liberty to rejoin the confederacy. He assured me that there was eminent danger that the convention would take place; that the temptations were such as might debauch many from their fidelity to the Union; and that, to enable its friends to make head against it, the repeal of the embargo was absolutely necessary. I expressed a just sense of the merit of this information, and of the importance of the disclosure to the safety and even the salvation of our country; and however reluctantly I was to abandon the measure, (a measure which persevered in a little longer, we had subsequent and satisfactory assurance would have effected its object completely) from that moment, and influenced by that information, I saw the necessity of abandoning it, and instead of effecting our purposes by this peaceful weapon, we must fight it out, or break the Union. I then recommended to yield to the necessity of a repeal of the embargo and to endeavor to supply its place by the best substitute in which they could procure a general concurrence.¹²⁰

Joseph Story also gave an account of the repeal which shows that Jefferson held out for the embargo as long as possible. Story declared in a letter to Edward Everett:

The whole influence of the Administration was directly brought to bear upon Mr. Ezekiel Bacon and myself to seduce us from what we considered a great duty to our country, and especially to New England. We were scolded, privately consulted, and argued with by the Administration and its friends on that occasion. I knew at the time that Mr. Jefferson had no ulterior measure in view, and was determined on protracting the embargo for an indefinite period, even for years. I was well satisfied that such a course would not and could not be borne by New England, and would bring on a direct rebellion. It would be ruin to the whole country. Yet Mr. Jefferson, with his usual visionary obstinacy, was determined to maintain it; and the New England Republicans were to be made the instruments. Mr. Bacon and myself resisted; and measures were concerted by us with the aid of Pennsylvania to compel him to abandon his mad scheme. For this he never forgave me.¹²¹

One other quotation in support of the view that Jefferson's hand was forced in the repeal of the embargo will be given. It was written by Jefferson himself to Henry Dearborn, not years afterwards when his memory was dulled, but on July 16, 1810, when the events were comparatively fresh in his mind. He said:

The Federalists, during their short-lived ascendancy, have nevertheless by forcing us from the embargo, inflicted a wound on our interests which

¹²⁰ Jefferson, *Writings*, Vol. X, pp. 353, 354.

¹²¹ Story W. W. *Life and Letters of Joseph Story*, Vol. I, p. 187.

can never be cured, and on our affections which will require time to cicatrize. I ascribe all this to one pseudo-republican, Story. He came on (in place of Crownenshield I believe) and staid only a few days, long enough, however, to get complete hold of Bacon, who giving in to his representations, became panick struck, and communicated his panick to his colleagues and they to a majority of the sound members of Congress. They believed in the alternative of repeal or civil war, and produced the fatal measure of repeal. This is the immediate parent of all our present evils, and has reduced us to a low standing in the eyes of the world.¹²²

The administration, it may be stated by way of brief summary of this and the preceding chapter, backed by its friends, sought to develop opinion in support of the embargo system by favorable newspaper accounts, by exalting the beneficial effect on manufactures and the saving of property, by lightening the operation of the embargo through permits granted to influential men, to trade under certain restrictions, and by town and state resolutions favorable to Jefferson and the embargo system.

As time passed, however, opinion steadily developed against the restrictive laws. Newspapers skillfully fanned the flame of opposition. Sailors, fishermen, and other sufferers held meetings and prepared petitions. Smuggling developed into armed opposition and public opinion supported the law violations. Increasing numbers declared the embargo unconstitutional. Federalist votes increased. Catchy poems, songs, and catechisms strengthened opposition. Town meetings condemned the measure in harshest terms. Newspapers advised resistance. Governors refused to enforce the law. Threats of disunion came thick and fast from New England. Jefferson, in order to prevent civil war, reluctantly gave in, and the non-intercourse act was substituted for the embargo, for he himself said in a longer quotation previously given: "I saw the necessity of abandoning it, and instead of effecting our purposes by this peaceful weapon, we must fight it out, or break the union."¹²³

¹²² *Writings of Thomas Jefferson*, Vol. IX, p. 277. Quoted in part in Story, W. W., *Life and Letters of Joseph Story*, Vol. I, p. 186.

¹²³ Jefferson, *Writings*, Vol. X, p. 354.

CHAPTER VII

EFFECT OF THE EMBARGO ON MANUFACTURES

One of the common arguments used by the friends of the embargo was that it would help develop manufactures. The following item is typical:

It is not denied that an embargo imposes on us privations. But what are these compared with its effects on those who have driven us into the measure? —We shall be deprived of market for our superfluities. They will feel the want of necessities. The profits of our labour will be dis-[ex] tinguished. The supplies that *feed* theirs will fail.

An embargo will not be without advantages, separate from the immediate purpose it is to answer. It forces frugality in the use of things, depending on habit alone for the gratification they yield. It fosters applications of labor which contributes to our internal sufficiency for our wants. It will extend those household manufactures, which are particularly adapted to the present stage of our society. And it favors the introduction of particular branches of others, highly important in their nature, which will proceed of themselves when once put into motion, and moreover by attracting from abroad hands suitable for the service, will take the fewer from the cultivation of our soil¹

References have already been made to the beneficial effect in the Congressional debates, but a few other instances will be given now and the subject will be considered in more detail. A House report brought in by Thomas Newton, January 11, 1808, against a Philadelphia petition for modifications of the embargo pointed out some expected benefits in the development of new and unexpected treasures. According to the report, England would be unable to get her raw materials any longer from the United States, and of course the United States would seek to use her own products as much as possible. The result would naturally be favorable to the development of our own manufactures.²

One of the friends of the embargo introduced on April 25,

¹ *Northampton Republican Spy*, January 13, 1808.

² *Annals of Congress*, Vol. XVII, p. 1387.

the following resolution in the House: "*Resolved*, That the members of the House of Representatives will appear at their next meeting clothed in the manufactures of their own country."³ A small storm at once occurred. Nathaniel Macon of North Carolina, a warm friend of the embargo, said that the resolution could not be enforced. If intended as a pledge, he declared, he was unwilling to give it; if to be enforced, he denied the authority of Congress.⁴ John Rhea of Tennessee declared that he would dress in any clothing he chose, the "resolution to the contrary notwithstanding."⁵ John W. Eppes of Virginia, son-in-law of Jefferson, admitted that the resolution could not be enforced, but expressed a wish that not only every man in the House, but every man in the nation could dress in home manufactures. He contended that "the proposition was a valuable one, and he wished to God that the ladies could be placed in a situation to adopt a similar resolution." Eppes declared that if he were to appear in clothing manufactured in his own state, he would wear homely garb, but if the resolution passed, he would have cloth manufactured in his own family before the next fall. He estimated that a million men wore broadcloth coats in the United States and that if all were made here an immense saving would be effected.⁶

Macon was again on his feet. He said that it was not fair that single men, like himself, "who had no wives at home to make them coats, should not only be reproached for their misfortune, but pointed at as sinners." He declared that he had just bought himself a suit, but that he could not get one of American manufacture. In fact, he argued, that a hat obtained for him by his friend Nelson of Maryland "was all that he could obtain of American manufacture." He insisted that Eppes could not persuade a single lady in the nation to agree to the resolution.⁷ The mover of the resolution, W. B. Bibb of Georgia, however, must have seen that the sentiment was decidedly against him; consequently, after saying that he had hoped his

³ *Ibid.*, Vol. XVIII, p. 2283.

⁴ *Ibid.*, p. 2283.

⁵ *Ibid.*, p. 2283.

⁶ *Ibid.*, pp. 2283, 2284.

⁷ *Ibid.*, p. 2284.

motion would be unanimously adopted and that he did not want to provoke debate, he withdrew it.⁸

On November 24, W. B. Giles of Virginia declared in the Senate, while opposing the repeal of the embargo, that manufactures were improving as a result of that measure. He said: "I rejoice, indeed, to see our infant manufactures growing into importance, and that the most successful experiment has attended every attempt at improvement."⁹ Other friends of the embargo likewise emphasized this point. Some of the opponents of the embargo were willing to admit a stimulus to manufactures, but they of course contended that the evil far outweighed any good.¹⁰ Moreover, they usually pronounced, as did Josiah Masters of New York, the effort to make the United States a manufacturing nation a visionary one.¹¹

John Howe, in one of his letters to Sir George Prevost, probably written in the fall of 1808, ridiculed the idea of the United States becoming a manufacturing country. He declared that twice as much could be made by exporting raw materials, for two-thirds of the land was yet uncultivated and a common laborer earned from one dollar to a dollar and fifty cents per day.¹² Later, in answering one of Prevost's questions he referred to increasing manufactures of munitions of war.¹³

At the opposite extreme from Masters and Howe stood enthusiastic and prosperous manufacturers. One of these, before the embargo had been in effect six months, wrote from Baltimore to Savannah: "Instead of receiving Cotton Goods from England, we may supply that country. It will be wise for the manufacturers to come in time to this country. This is a just enthusiasm, and promises good to our country."¹⁴

Albert Gallatin in his famous report on manufactures in 1809 declared that the interference of belligerent powers with neutral trade "by forcing industry and capital into other channels" had

⁸ *Ibid.*, p. 2284.

⁹ *Ibid.*, Vol. XIX, p. 102.

¹⁰ *Ibid.*, pp. 445, 446.

¹¹ *Ibid.*, p. 610.

¹² "Secret Reports of John Howe," *American Historical Review*, Vol. XVII, p. 334.

¹³ *Ibid.*, pp. 353, 354.

¹⁴ *Virginia Argus*, May 24, 1808.

"broken inveterate habits, and given a general impulse to which must be ascribed the general increase of manufacture during the two last years."¹⁵

On November 29, 1809, Madison, former Secretary of State for Jefferson, who had been inaugurated as president, clothed in the first inaugural suit of American broadcloth, observed in his first annual message:

In a cultivation of the materials and the extension of useful manufactures, more especially in the general application to household fabrics, we behold a rapid diminution of our dependence on foreign supplies. Nor is it unworthy of reflection that this revolution in our pursuits and habits is in no slight degree a consequence of those impolitic and arbitrary edicts by which contending nations, in endeavoring each of them to obstruct our trade with the other, have so far abridged our means of procuring the productions and manufactures of which our own are now taking the place.¹⁶

Madison again referred to the extension of useful manufactures and the substitution of domestic for foreign supplies in his message of December 5, 1810, as a cause for satisfaction, and "of itself more than a recompense for their privations and losses resulting from foreign injustice, which furnished the general impulse required for its accomplishments." He even suggested to Congress that it might be worth while to guard the rising manufactures by a commercial tariff.¹⁷

Madison, moreover, talked to callers on the subject of manufactures. Thus on June 1, 1809 (?) he talked for an hour with an English traveller named John Melish. According to the latter, the president said that manufactures "had progressed in a wonderful degree, and went far to supply the internal demand, which was one great and permanent good that had risen out of a system fraught with many evils." He declared that these manufactures were so firmly established that they would continue to increase, but that the increase of wealth and population was so great in the United States that, if trade were opened, "there would still be a very great demand for British manufacturers."¹⁸

¹⁵ *American State Papers, Series Finance*, Vol. II, p. 427.

¹⁶ Bishop, J. L., *A History of American Manufactures*, Vol. II, p. 136, and Richardson, R., *Messages and Papers of the Presidents*, Vol. I, p. 477. See also the *National Intelligencer*, March 6, 1809.

¹⁷ Richardson, R., *Messages and Papers of the Presidents*, Vol. I, pp. 484, 485.

¹⁸ Melish, John, *Travels*, p. 289.

Jefferson, of course, was more interested than anyone else in claiming all possible benefits for the embargo system; hence he referred repeatedly to the beneficial effects of the embargo on manufactures. For instance, November 8, 1808, in his eighth annual message, he said:

The situation into which we have thus been forced, has impelled us to apply a portion of our industry and capital to internal manufacture and improvements. The extent of this conversion is daily increasing, and little doubt remains that the establishments formed and forming will—under the auspices of cheaper materials and subsistence, the freedom of labor from taxation with us, and of protecting duties and prohibitions—become permanent.¹⁹

Many of the governors in their inaugurals or other speeches, referred to the development of manufactures as a result of restrictions on commerce, though, unlike Gallatin, Madison, and Jefferson, they did not, ordinarily give specific credit to the embargo. The governor of Pennsylvania, Simon Snyder, said, in his annual message of 1809:

It is also a cause of much satisfaction to observe that in proportion to the difficulty of access to, and commerce with, foreign nations, is the zeal and exertion to supply our wants by home manufactures. Our mills and furnaces are greatly multiplied; new beds of ore have been discovered, and the industry and enterprise of our citizens are turning them to the most useful purposes. Many new and highly valuable manufactories have been established, and we now make in Pennsylvania various articles of domestic use, for which two years since, we were wholly dependent upon foreign nations.

We have lately had established in Philadelphia large shot manufactories, floor cloth manufactories, and a queen's ware pottery upon an extensive scale. These are all in successful operation, independent of immense quantities of cotton and wool, flax and hemp, leather and iron, which are manufactured in our state, and which save our country the annual export of millions of dollars.²⁰

Governor Stone of North Carolina spoke hopefully of the "advances already made, and hourly making" in the development of local manufactures.²¹ Governor Irwin of Georgia declared:

Already a spirit of patriotism and enterprise has manifested itself

¹⁹ Jefferson, *Writings*, Vol. IX, pp. 223, 224. For other expressions of opinion, see *ibid.*, pp. 226, 239.

²⁰ *Pennsylvania Archives, Papers of the Governors*, Vol. IV, pp. 1785-1817, 677. See also *Boston Gazette*, July 7, 1808.

²¹ Bishop, *op. cit.*, Vol. II, p. 141.

generally, and our citizens, foreseeing the evils which must result from too great reliance on articles of foreign manufacture, are shaking off those fashionable fetters, which held them in a state of servile dependence upon other nations, and making every exertion to clothe themselves in fabrics of their own. Will you not second their efforts, and, by rendering all the aid in your power, give a spur to their laudable pursuits?²²

Newspapers writers frequently commented on the development of manufactures in Georgia and the South generally. A significant item follows: "Home made cotton cloth, of a good quality, and a yard wide, is retailing in Savannah at half a dollar per yard. A few weeks ago one of the Georgia farmers sold there a thousand yards of his cloth, all manufactured in his own family."²³

Foreign travellers, as well as native Americans, point out the development of American manufactures in 1808 and 1809. John Melish, an English merchant, travelled in the United States in 1806 and 1807, and again in 1809, 1810, and 1811. After referring to his wrecked mercantile business in Savannah, he described his journey north. He spent one night with a farmer who lived about half way between Sparta and Greensburg, Georgia. At the farmer's home, he found the family busily engaged in manufacturing. Some of the articles, he said, were "handsome" and all were good. This family reported that they supplied themselves and in addition sold a "considerable quantity of goods."²⁴ While still in Georgia, Melish described the effects of the commercial restrictions on manufactures as follows:

During this journey to the upper country, I made every inquiry that I could regarding the state of its commercial concerns, and I was satisfied that it had undergone a great revolution since I was in the country before. The staple commodity of the state is cotton, and it had so fallen in value as to cut off upwards of one-third of the income of the country. It followed that the inhabitants must curtail their expenditure in proportion. I accordingly found that all the people in the interior of the country were clothed in homespun. In almost every family a cotton manufactory was to be seen, and in some instances they had introduced spinning upon a pretty large scale, by jennies. At a parade of the militia, at Augusta, I was told that out of 500 men only two were to be found who had a single article of British manufacture about them. It had become fashion-

²² *Ibid.*, pp. 141, 142.

²³ *Baltimore Federal Republican and Commercial Gazette*, August 19, 1808.

²⁴ Melish, John, *Travels*, p. 263.

able everywhere to wear homespun; and from the very substantial stuff the people were making, and the agreeable employment it afforded to the young women of the country, I was convinced that this trade would increase, probably to nearly the total exclusion of British goods from the state. . .²⁵

Very frequently in the course of his travels, Melish was led to refer to manufactures. At New York he was astonished to see the rapid progress of manufactures within the course of a few years.²⁶ Later, in describing conditions in Ohio, he referred in almost the identical words of Gallatin's report to the forced diversion within the last twenty years of American capital to other channels, the breaking of "inveterate habits" and the giving of "a general impulse, to which must be ascribed the great increase of manufactures during the last two years."²⁷ Again, in describing conditions in western New York, Melish wrote with more enthusiasm than judgment perhaps:

A new era has commenced in the United States. Britain is destined to be no longer the manufacturer for America; the seeds of manufactures are sown throughout the country, never to be rooted out; and, so far from the interior being dependent upon the cities as heretofore, the cities will, in all probability, become dependent upon it.²⁸

D. B. Warden, a man of the period whose book entitled *Statistical, Political, and Historical Account of the United States* was published in Edinburgh in 1819, was impressed by the ingenuity of the Americans in encouraging the development of manufactures. He wrote:

Foreign artists and tradesmen were encouraged to settle in the country. The implements, tools, and even the furniture of emigrant mechanics, were made free of duty. In Pennsylvania such persons were admitted as freeholders on the day of their arrival, provided they declared their intentions of becoming citizens within the time prescribed by law. A knowledge of machinery, and processes for the saving of labour, were communicated, through the daily journals, to all descriptions of people. . . Mineralogy became an object of attention, and every district was ransacked for useful minerals. The skins of various animals, hitherto useless, were preserved and manufactured; and the farmers were induced by men of science to

²⁵ *Ibid.*, p. 267.

²⁶ *Ibid.*, p. 274.

²⁷ *Ibid.*, p. 438.

²⁸ *Ibid.*, pp. 534, 535.

direct their attention to the cultivation of native and exotic plants, which had been found useful in the arts or manufactures.²⁹

In 1808, the manufactures of South Carolina were small, but while the privations of the embargo were becoming evident, Dr. Shecut published a series of strong addresses in the *Charleston City Gazette* in an effort to create a spirit favorable to domestic manufactures. The establishment of a South Carolina "Home-spun Society" was discussed. This society, with headquarters at Charleston, was to have a capital of \$150,000, divided into fifteen thousand shares of ten dollars each. One thousand of these shares were reserved for the legislature.³⁰ When, however, several public meetings had been held, and the company was finally organized, its capital apparently dwindled to thirty thousand dollars. The object of this company was the promotion of the manufacture of common domestic fabrics. Some ground was purchased, and the cornerstone of the manufacturing establishment was soon laid. A procession of over four thousand and a still larger audience took part in the celebration. An address of congratulation was delivered by William Lough-ton Smith. Approval and support of the measure were considered tests of patriotism.³¹

Similar action was general both north and south of Charleston. At Richmond, Virginia, W. H. Cabell, William Wirt, William Foushee Sr., Peyton Randolph, and Thomas Ritchie issued an address urging all Virginians to adopt such a system of domestic manufacture "as would render them independent of foreign nations."³²

During the year 1808 the first flint glass manufactory was established in Pittsburgh by Messrs. Bakewells and Co., and a steam flouring mill was also built.³³ In Maryland the Union Manufacturing Company was incorporated with a capital of one million dollars. This capital was divided into twenty thousand

²⁹ Warden, D. B., *Statistical, Political, and Historical Account of the United States*, Vol. III, p. 263.

³⁰ *National Intelligencer*, September 2, 1808.

³¹ Bishop, J. L., *A History of American Manufactures from 1608 to 1860*, Vol. II, pp. 129, 130. Bishop gives the most authoritative account of early American manufactures.

³² *Ibid.*, p. 130.

³³ *Ibid.*, p. 131.

shares of fifty dollars each and was owned by over three hundred persons. The state itself owned two hundred shares. The object was to manufacture coarse cotton cloth on a large scale.³⁴ In Washington City a textile company with a capitalization of fifty thousand dollars was announced as in process of formation. This company expected to work up cotton, wool, hemp, and flax.³⁵

Rhode Island and other New England states likewise felt the stimulating effect of the embargo on manufactures. Cotton manufactures increased rapidly. In 1808, in Rhode Island, the Potowomut Cotton Company was established at Warwick, a company at South Kingston, and another at Coventry. A Providence item concerning Rhode Island manufactures read:

The Cotton Factories likely to produce spun cotton by June next in this state, and chiefly within a few miles of this town are *thirty-four* in number; and they are expected to move in all about *twenty thousand spindles*. That is at least four times as many as have hitherto been in operation.³⁶

A cotton mill was established at Rehoboth, Massachusetts, and still another at Sterling, Connecticut. The Pawtucket mill of Samuel Slater, however, was still the largest in the Union.³⁷ Concerning this mill a Providence letter declared: "The oldest water spinning factory in these states is at Pawtucket, about five miles from this town, it commenced in 1792, with *twenty-two spindles only*, it now moves about Nine Hundred, and is the largest mill in this country."³⁸ At Plainfield, New Jersey, the manufacture of hats began.³⁹

A flourishing manufacture of a different type, directly resulting from the embargo, was carried on in northern New York. Potash had risen in value in Canada from one hundred to one hundred and twenty dollars per ton to three hundred dollars. The temptation afforded by this high price gave a great impulse to potash manufacture in northern New York. Practically the entire population of Essex County was busied in making

³⁴ *Ibid.*, p. 132.

³⁵ *Paulson's American Daily Advertiser*, July 30, 1808.

³⁶ *Rel's Philadelphia Gazette and Daily Advertiser*, March 11, 1808.

³⁷ Bishop, *op. cit.*, p. 131.

³⁸ *Rel's Philadelphia Gazette and Daily Advertiser*, March 11, 1808.

³⁹ Bishop, J. L. *op. cit.*, p. 132.

and transporting potash to Montreal. This business continued until the outbreak of war in 1812.⁴⁰

All manufactures, nevertheless, it must be admitted, did not prosper. Thus the Beverly factory, which was interested in the manufacture of bed ticking and was noted as the largest in the country even after the establishment of some Arkwright mills, was closed in 1807, "when the embargo shut up the shipping upon which Salem and Newburyport depended for prosperity, and a crisis swept over Essex County that closed industrial as well as mercantile establishments."⁴¹ Those entirely dependent for a market on commerce naturally suffered as did those entering entirely into the process of ship construction. In 1808 the total tonnage of the vessels built was only 31,755, or about one-third that of the previous year. Because of the embargo shipbuilding was given up on the Ohio; only one schooner of one hundred tons, constructed at Marietta, was built during the year.⁴²

In 1809, 1810, and thereafter for several years the stimulus to manufactures increased. Woolen goods were scarce and high because of the restrictions on trade; hence the public turned its attention to sheep husbandry and the domestic manufacture of wool. Messrs. Humphreys and Livingston had imported some merino sheep previous to the embargo, but the few full blooded descendants of those Spanish merino sheep soon rose in value to five hundred and even fifteen hundred dollars a piece. Merino wool rose from seventy-five cents to two dollars per pound. During 1809, however, William Jarvis of Weathersfield, Vermont, then serving as American consul at Lisbon, bought fourteen hundred of the crown flocks, which were sold at the order of the French government. He shipped these sheep to the United States. During the course of that year and the next, 1810, he sent to the United States over two thousand more pure merinos. These importations were encouraged by the payment of bounties. Thus a Pennsylvania law gave to the first person introducing a merino ram in any

⁴⁰ *Ibid.*, p. 132.

⁴¹ Clark, V. S., *History of Manufactures in the United States, 1607-1860*, pp. 534, 535.

⁴² Bishop, J. L., *op. cit.*, pp. 130, 131.

county of the state fifty dollars.⁴³ Jarvis' importations, with those of other parties, in all about five thousand, soon reduced the price, scattered the breeds throughout the country, and of course stimulated woolen manufacture.⁴⁴ In support of this view we read such clippings as: "The Merino breed of sheep has become numerous in the neighborhood of Newcastle, (Del.)—We observe the names of twenty-eight gentlemen, who, on this account, forbid hunting on their enclosed grounds with dogs or guns."⁴⁵

Every possible effort was made to encourage the use of home manufactures. Militia, judges, and legislators as well as executives frequently made their use a test of patriotism. Thus the Petersburg cavalry troop unanimously resolved to appear clad in homespun on the approaching anniversary of American independence.⁴⁶ The members of the South Carolina bar agreed to appear before the bar in full suits of domestic manufactures, changed, however from the regulation black to a dark gray.⁴⁷ Again, the members of the Ohio legislature, before adjourning, passed resolutions upholding the policy of the government and recommending that its members appear at the next session clothed in domestic manufactures.⁴⁸

Another stimulus was the holding of public dinners or the extending of a vote of thanks, that is, public recognition. Thus, at Baltimore, those interested proposed the holding of a semi-annual dinner "to which every Manufacturer, Mechanic, or Artizan of good demeanor, shall be invited to partake of a dinner, be his Country, Politics or Religion what they may."⁴⁹ Besides enjoying public dinners and praise, Colonel David Humphreys received a vote of thanks from the Connecticut legislature for his work in introducing merino sheep.⁵⁰

Very frequently also, premiums were offered for the best

⁴³ *Paulson's American Daily Advertiser*, August 9, 1808.

⁴⁴ Bishop, *op. cit.*, pp. 134, 135.

⁴⁵ *National Intelligencer*, April 19, 1809.

⁴⁶ *Ibid.*, June 17, 1808.

⁴⁷ *Richmond Enquirer*, December 22, 1808.

⁴⁸ *National Intelligencer*, March 17, 1809.

⁴⁹ *Baltimore Evening Post*, October 26, 1808.

⁵⁰ *Paulson's American Daily Advertiser*, November 15, 1808.

articles of domestic manufacture. Only one instance will be noted, but the account will be quoted entire, for it shows the results as well as the inducements:

The Philadelphia Premium Society has awarded to Col. Humphrey's exhibit of Broadcloth, a premium of 50 dollars. The opinion of the judges was, 'that the article of superfine cloth from the State of Connecticut, exhibited for the premium No. 1, is not only superior to any other specimen or to any idea they had entertained that cloth of such quality could be manufactured in the U. S. but that it is in goodness of workmanship, whether as it regards the spinning, weaving, dying or dressing, at least *equal*, and in fineness of wool *much superior*, to the best Broadcloth imported from any part of Europe.'

The persons employed in the manufacture of the premium piece, five in number, have been each presented with an American half eagle by the society. The Broad cloth manufactured at Humphreysville, (Con.) sells the best kind for 10 dollars per yard, and the second quality for 7. President *Jefferson*, and a number of other distinguished characters, have ordered patterns for coats from this manufactory.⁵¹

Naturally, friends of the embargo continually pointed to the stimulus of that measure on manufactures. A widely copied article read:

In Philadelphia, the embargo, although fell severely has not produced distress to the population. This is owing in a great measure to the buildings now erecting in the city. The capital of the merchants and monied men being withdrawn from commerce has been appropriated to other purposes. Almost four hundred houses are now erecting in the city which allowing twenty men to each house, including carpenters, brickmakers, brick-layers, masons, labourers, etc. now give employment by the embargo to 8,000 of our citizens who would otherwise be severely affected by the embargo. Besides, the banks have continued their discounts and have indeed, so much money to lend, that no man who has tolerable personal security to offer will be refused a discount.⁵²

In October, 1808, the *Aurora* said:

The embargo has built, or nearly built, one thousand new houses in this city. The embargo has erected two manufactories of shot in this city, which forever secures the circulation at home of about two hundred thousand dollars, hitherto sent abroad to pay for shot. For shooting birds alone we sent two hundred thousand dollars abroad. Philadelphia now, from the two towers erected for casting patent shot, can, after supplying all America, supply all Asia besides. . . We have two manufactories of

⁵¹ *Boston Independent Chronicle*, January 9, 1809.

⁵² *Baltimore Evening Post*, September 1, 1808.

red lead already established, whose capacity is competent to supply the whole country, with red lead and with litharge. A manufactory of white lead is also going on.⁵³

Early in 1808 the Philadelphia Manufacturing Society was established with a capital of fifty thousand dollars in fifty dollar shares. It expected to make cotton, woolen, linen, and other goods. On November 17, the manufacturers and mechanics of Philadelphia celebrated the improved prospects of industry by a big dinner. Colonel Humphreys of Connecticut was present. John Dorsey, president of the festival, appeared in a suit of American broadcloth made from merino fleece.⁵⁴

In New York much capital was diverted from commerce to manufacturers. Dr. Seth Capron, who had erected the first cotton manufactory in that state at Whitesborough, Oneida County, established the Oriskany Woolen Mills, thought by some people to be not only the oldest in the state, but also in the United States. The charter of the company was dated in 1809, but the mills had then been in operation several months. Among the members of the company were Stephen Van Rensselaer, Ambrose Spencer, DeWitt Clinton, John Taylor, James Platt, Nathan Williams, Newton Mann, and Theodore Sill. Prices were high for several years. The satinets first made sold for four dollars per yard and the broad cloth brought from ten to twelve dollars. During the first four years the wool used cost one dollar and twenty cents per pound on the average.⁵⁵

The development of cotton manufactures, due to commercial restrictions, 1803-1810, was wonderful. In 1803 there were

⁵³ *Statesman*, November 24, 1808.

⁵⁴ Scharf, J. T. and Westcott, Thompson, *History of Philadelphia*, Vol. I, pp. 531, 532. The 1808 and 1809 newspapers of Philadelphia contain numerous advertisements of manufactures. A few of these are quoted in Professor L. M. Sears' "Philadelphia and the Embargo of 1808." This paper was read in manuscript form through the courtesy of Professor Sears, but now appears in the *Quarterly Journal of Economics*, February, 1921. Professor Sears, it appears to the present writer, has practically established his thesis, "That in the case of one great commercial city (Philadelphia) an embargo which should in theory have proved wholly ruinous, served in fact, partly in combination with growing demands from the Western market, to stimulate manufactures to a point where prosperity exceeded adversity." In other important cities the development of manufactures undoubtedly mitigated the losses arising from the commercial restrictions.

⁵⁵ Lamb, M. J., *History of the City of New York*, Vol. II, Part II, pp. 545, 546.

only four cotton mills in the United States; in 1810, the number was 226, a gain of 5550 per cent. These mills were distributed as follows: Massachusetts—54; Vermont—1; Rhode Island—28; Connecticut—14; New York—26; New Jersey—4; Pennsylvania—64; Delaware—3; Maryland—11; Ohio—2; Kentucky—15; and Tennessee—4.⁵⁶

A widely copied summary of the beneficial effects of the first six months of the embargo on manufactures follows:

In the New England states, thousands of respectable manufactories are in active operation.

In Philadelphia, besides a respectable public establishment, a great number of private flourishing manufactories of cotton have been established.

In Baltimore a company with a million is organized.

In Petersburg twenty-five thousand dollars have been subscribed in a day.

In Richmond, under the most intelligent and patriotic auspices, a capital of half a million is engaged in this object.

In short the patriotic flame appears to be fed throughout the whole union by an inexhaustible fuel.

Already, it is computed that at least five millions of dollars have been devoted to manufactures in the last six months; a capital competent to the furnishing manufactured articles to the amount of at least ten millions.

Britain, seeing what is already done, will anticipate what will happen if she persist in her injustice; she will see that, five years hence, we shall not need a tenth part of the manufactured goods we now receive from her.⁵⁷

Copious quotations of the stimulating effect of the embargo on manufactures might be made from practically all the writers of this period, but the author will content himself with a brief reference to three of the older writers, one of the late investigators, and close this part of the discussion with a short reference to Gallatin's report. B. J. Lossing wrote: "The number of cotton factories in the United States in 1810, when embargoes and other disturbers of commerce with Europe stimulated that industry here, was 241 and the number of spindles was 96,000."⁵⁸ After referring to the harmful effect of the embargo on commerce, A. S. Bolles said: "Accordingly, capital was withdrawn from the shipping interest, and put into manu-

⁵⁶ Wright, C. D., *History of Wages and Prices in Massachusetts, 1752-1883*, p. 17.

⁵⁷ *Boston Gazette*, July 7, 1808.

⁵⁸ *History of American Industries and Arts*, p. 293.

⁵⁹ *Industrial History of the United States*, p. 865.

factures."⁵⁹ J. H. Patton, after referring to the bad effects on commerce and agriculture added: "Some good grew out of this evil. The tens of thousands thrown out of employment by the effect of the embargo and kindred measures were compelled by the iron hand of necessity to seek a livelihood by other means and their attention was somewhat directed to domestic manufactures."⁶⁰

V. S. Clark, while not emphasizing the stimulus of the embargo as much as some other writers, nevertheless, does say that the embargo and hostilities with England with "accompanying conditions in Europe greatly assisted that expansion." Of the embargo itself, Clark declared:

The effect of the embargo was two fold; it curtailed foreign supplies of textiles and it caused capital to be transferred from commerce to manufacturing. This was not a net gain, for the business disturbance due to so abrupt and artificial a readjustment brought loss as well as profit even to the industries that were its ultimate beneficiaries. However, a remarkable multiplication of mills ensued. In 1809, if we may trust the testimony of a prominent contemporary engaged in this industry, more than 50 mills were under construction in New England.⁶¹

Gallatin's Report on Manufactures in 1809 divided manufactures into three general classes. In the first class he placed manufactures of wood, or of which wood was the principal material, leather, soap, tallow candles, spermaceti oil and candles, flaxseed oil, refined sugar, coarse earthen ware, snuff, chocolate, hair powder, and mustard; these were the articles of which the United States produced enough to supply the home consumption. In the second class he placed manufactures "firmly established"; iron, cotton, wool, flax, hats, paper, printing types, printed books, playing cards, spirituous and malt liquors, hemp, gunpowder, window glass, jewelry and clocks, lead, straw bonnets and hats, and wax candles. In the third class he placed manufactures in which progress had been made as paints and colors, several chemical preparations and medicinal drugs, salt, copper, brass, japanned and plated ware, calico printing, queens and other earthen and glass wares, etc.

It is not the intention to discuss all the manufactures which

⁵⁹ *History of the United States of America, from the Discovery of the Continent to the Close of the Thirty-sixth Congress*, p. 569.

⁶¹ *History of Manufactures in the United States, 1607-1860*, p. 536.

were said to be worth about one hundred and twenty million dollars; neither is it the intention to take up the iron manufactures or leather manufactures, both important, the former worth fifteen million dollars and the latter twenty million. A brief reference, however, will be made to the textile and household manufactures. Returns were received from eighty-seven mills erected at the end of 1809. Sixty-two (forty-eight water and fourteen horse) were in operation and worked thirty-one thousand spindles. By far the largest part of material made from cotton, flax, and wool, however, was manufactured in private families. Carding machines worked by water were established in the eastern and middle states and were being introduced elsewhere. Jennies and other spinning machines as well as flying shuttles were also introduced in many places. Enough fulling mills had been erected to finish all the cloth woven in private families.

Concerning his sources of information and the growth of household manufactures, Gallatin wrote:

The information received from every State, and from more than sixty different places, concurs in establishing the fact of an extraordinary increase, during the two last years, and in rendering it probable that about two-thirds of the clothing, including hosiery, and of the house and table linen, worn and used by the inhabitants of the United States, who do not reside in cities, is the product of family manufactures.⁶²

Again, in commenting on the causes for general growth of manufactures, the Secretary of the Treasury wrote:

A great American capital has been acquired during the last twenty years; and the injurious violations of the neutral commerce of the United States, by forcing industry and capital into other channels, have broken inveterate habits, and given a general impulse, to which must be ascribed the great increase of manufactures during the two last years.⁶³

The decided stimulus given to manufactures by commercial restrictions lasted until 1815. When the war of 1812 closed, English and other European manufacturers were dumped on the American market. The protective tariff system was inaugurated in 1816, however; hence the impetus given by the embargo was never lost entirely.

⁶² *American State Papers, Finance*, Vol. II, p. 427.

⁶³ *Ibid.*, p. 430. Whole report is found pp. 425-431.

CHAPTER VIII

EFFECT OF THE EMBARGO ON AGRICULTURE

Decidedly unlike the effect on manufactures was the effect of the embargo on agriculture. This effect, already referred to in the debates, will be discussed under the following heads: price of produce, value of real estate, payment of debts, speculation, and general effect on the various sections of the country.

Congressional debates abound with references to unsold crops and low prices of agricultural products. On November 17, 1808, Nathaniel Macon of North Carolina, a friend of the embargo, admitted that crops remained unsold.¹ On November 28, Josiah Quincy and Ezekiel Bacon of Massachusetts, the former an opponent and the latter a friend of the embargo, seemed to be agreed that beef, pork, butter, cheese, and other products commonly exported sold at a lower price than formerly, whereas imported products as tea, sugar, salt, West India rum, and molasses sold at a higher price.² Two days later, George M. Troup of Georgia, a friend of the embargo, contended that the South had suffered as much from that measure as the North. He declared that the ordinary market price of cotton was between eighteen and twenty-two cents, whereas the embargo price was ten to twelve, that the ordinary price of rice was from five to six dollars, whereas the embargo price was two to three.³ A month later, December 27, James Sloan of New Jersey, an opponent of the embargo, declared that domestic produce had fallen one-half in value, while imported products had risen in the same proportion, because of the embargo.⁴ Over a month later, January 31, 1809, John Rhea of Tennessee, a former friend of the embargo, now speaking for repeal on the fourth of March, said that the

¹ *Annals of Congress*, Vol. XIX, p. 499.

² *Ibid.*, p. 538.

³ *Ibid.*, p. 604.

⁴ *Ibid.*, p. 925.

agricultural interest had "to its great disadvantage, endured for a sufficient length of time, the great depression in the price of produce."⁵

Numerous other references to speeches made in both Houses of Congress might be given to show the general concurrence of opinion among friends and foes of the embargo that low prices were considered due to the embargo, though it ought to be pointed out again that friends of the embargo often liked to insist that the low prices and slow sales were due to the orders of England and the decrees of France rather than to the embargo itself.

American anti-administration newspapers with many others from the first passage of the measure referred to the damaging effects on agriculture. A Massachusetts paper commented on the "alarming and melancholy situation of the United States, and more especially of the great commercial cities" as sufficient to "appal the stoutest hearts."⁶ A week later the same paper commented on the big fall in the price of flour at New York, Alexandria, Baltimore, and other places, and stated that several great failures had already occurred.⁷ Two weeks later a writer favored the establishment of a national fast day because "of the present circumstances which so seriously threaten the peace of our country."⁸

About the same time a Charleston, South Carolina, paper said:

What the effect of this will be abroad, we are to learn hereafter, but those which it is producing at home we begin to feel pretty sharply; rice, which some weeks since sold briskly at three dollar 50 cents, is now nominally but one dollar 75 cents. Black seed cotton has fallen from 34 cents to 22 or 23, and no sale; and corn down to 56 cents. The North Carolina Price Current says, flour is down to two dollars 25 cents the barrel; and tobacco to two dollars 50 cents the hundred weight. Such is the beginning of the embargo measure; but what will be the end?⁹

⁵ *Ibid.*, p. 1246.

⁶ *Massachusetts Spy, or Worcester Gazette*, January 6, 1808.

⁷ *Ibid.*, January 13, 1808.

⁸ *Ibid.*, January 27, 1808.

⁹ *Scots Magazine; and Edinburgh Literary Miscellany*, Vol. 70, p. 295. This quotation came from the *Charleston Courier* and was widely copied. It is found in the *Connecticut Courant*, February 17, 1808.

Frequently the attacks took the form of poetry. One stanza from the long poem, "Americans and Liberty," follows:

"We all have families to feed,
And cover from the cold.
In former years 'twas easy
When produce could be sold,
But now, what Bonaparte command,
Our chiefs with him agree,
And all he wants, our Congress grants;
Such now is liberty."¹⁰

A memorial of the selectmen of Northampton to Congress for the repeal of the embargo refers in detail to the bad effects on merchants, sailors, and farmers. Moreover, it shows how the injury of the former harmed the farmers. Thus we note:

That bankruptcies are continually occurring in our great towns, which spread their effects and produce bankruptcies in the country, which again branch out and extend their disastrous consequences to the door of almost every citizen. The farmer is unable to find a market for his surplus produce, or to realize his dues for such as he may heretofore have vended. His hopes of an honorable and needful reward for the toils of the last season are defeated, his spirits depressed, and his laborious industry checked by the gloomy prospects of the future.¹¹

A letter from Colonel Wade Hampton to General Sumter describes the effect of the embargo in the South, especially in South Carolina. The colonel, who supported the embargo, said in part:

The peculiar stage of the African trade had stripped the planting interest, pretty generally, of their resources, and involved many of them in debt. The crop was just coming in to their aid, but being cut off from this, there remains nothing between the hammer of the sheriff's auctioneer and their property—and indeed sales of this description have multiplied to an astonishing degree, in every part of the state.¹²

The embargo, since it lowered agricultural prices, was frequently attacked as a land tax. Thus we note:

A Land Tax. The Citizen fairly confesses that the Embargo is a *land*

¹⁰ *Boston Gazette*, March 14, 1808.

¹¹ *Ibid.*, March 18, 1808.

¹² *National Intelligencer*, April 4, 1808.

tax 'the federalists now have a land tax in their favor! And so it is. The farmer who raises two hundred bushels of wheat and sells the same at only one dollar a bushel in consequence of the Embargo, instead of *Two*, which he has been getting for seven years together, pays in fact a tax out of his land of *one hundred dollars*. Farmers and men of property it is, but not of overgrown estates, who feel the Embargo, and their feelings speak out.¹³

Again, an article which declared that the government revenues, which had come largely from commerce, would now necessarily be replaced by a land tax, read in part:

The Farmer who is nearly ruined by Mr. Jefferson's experiments, who can't sell his crop for half price, and whose grain is rotting upon his hands will be obliged to pay a direct tax to support government, and a set of blind or wicked men who are doing everything in their power to distress the farmers, are to be paid out of their pockets. The only way for the people to save themselves from ruin is to turn such unworthy servants out of office and elect men who they know will vote against the embargo, and all such measures as are intended to destroy commerce and injure agriculture which is her hand-maid.¹⁴

In the case of forced sales, prices were lower. Thus, according to report, over one hundred bushels of wheat in Montgomery County, New York, were sold at one shilling nine pence per bushel.¹⁵ In contrast to this, if our authority the New York *Gazette* is correctly quoted, potatoes in the Fly Market were, about the same time, worth 2s 6d. per peck, beef nine pence to one shilling per pound, pigs ten to twelve shillings a piece, and "other articles proportionately high."¹⁶

Another article goes to the opposite extreme. Thus in a Halifax item of May 3, concerning New York, denied by the paper quoting it, flour was reputed to be worth two dollars a barrel, beef and pork one pence per pound, tobacco two dollars per hundred weight, cotton and wool eight cents per pound. The yards and wharves were declared to be so full of produce that some lumber brought down in March had to be sold for firewood.¹⁷

In general, however, even the strongest of administration

¹³ *Connecticut Courant*, May 11, 1808.

¹⁴ *Baltimore Federal Republican and Commercial Gazette*, August 22, 1808.

¹⁵ *Boston Columbian Centinel*, June 15, 1808.

¹⁶ *Northampton Republican Spy*, June 15, 1808.

¹⁷ *National Intelligencer*, August 12, 1808.

newspapers admitted the bad effects of the embargo on agriculture. An editorial in a Virginia paper read in part: "The embargo is certainly an evil—a great evil upon the commercial and agricultural interests of the nation—but what evil, less than it, could be adopted in its place?"¹⁸

Figures are hard to obtain for the exact prices of various commodities. Since the movement in Massachusetts, however, is in part typical of that in other states, percentage of decrease will be figured from prices in that state. The price of beans in 1808 was 41 per cent less than in 1807, of potatoes 23 per cent less, of rye 14 per cent less, of meal 16 per cent less, of corn about 55 per cent less, of flour 17 per cent less, of butter 17 per cent less, of cheese 5 per cent less, of veal 17 per cent less, of beef 9 per cent less, of mutton 22 per cent less, of pork 43 per cent less, of merchantable boards 12 per cent less, and of high grade cord wood 23 per cent less. The effect on the fishing industry was apparently not so marked. Halibut declined 5 per cent and eels 29 per cent, but cod fish increased 19 per cent. Naturally, articles produced in the southern part of the United States and especially in foreign countries increased in value to some extent. Thus rice increased 44 per cent. Lemons increased 168 per cent in value, cassia 140 per cent, buttons 96 per cent, nutmegs 80 per cent, high grade brandy 33 1-3 per cent, low grade 50 per cent, hose 48 per cent, and shoes 15 to 33 1-3 per cent. The price of some manufactured goods, decreased. Gloves fell 60 per cent in value and sewing silk 16 per cent.¹⁹

Newspapers commented on the low price of native products and emphasized the high price of imported materials. A New York letter referred to the high prices; salt at \$1.50; Havanna white and brown sugar from \$10.50 and \$12.50 to \$14.50 and \$15. Pepper and cork also increased in a marked way, the latter one hundred per cent.²⁰ A Massachusetts paper declared that while pork could be bought for three cents a pound, cassimeres had

¹⁸ *Richmond Enquirer*, December 2, 1808.

¹⁹ Wright, C. D., *History of Wages and Prices in Massachusetts*, pp. 70-74. This study by Wright is the most exhaustive of its kind, but unfortunately it applies only to the one state.

²⁰ *Baltimore Federal Republican and Commercial Gazette*. December 12, 1808.

advanced a dollar a yard, salt had doubled, and that almost all imported dry goods and groceries had risen from ten to fifty and, in some cases, a hundred per cent.²¹

John Howe, the British agent, reported to Sir George Prevost on the low prices. In a letter dated June 7, at New York, he declared that before the embargo cotton sold as high as twenty-four cents a pound, but that a few days ago it would not bring ten cents at public auction.²² On June 22, he wrote to the same man from Philadelphia concerning his observations in New Jersey. He said that the people were uneasy because of the continuance of the embargo, for the crop prospects were excellent but markets could not be found.²³

Numerous quotations could be given from writers who point out the harmful effect of the embargo on products. Only one late writer, however, will be referred to, D. R. Anderson, who penned an interesting biographical sketch of William Branch Giles, one of the administration leaders. In this study, Anderson avoided condemning the embargo wholesale, but he did point out some harmful effects. He said that the tobacco, wheat, flour, and corn of Virginia sought in vain for a market. Obviously, if markets were scarce, prices were likely to be low.²⁴ David Ramsay, in speaking of the evil effects, declared that when the news of the embargo reached South Carolina "the price of produce instantly fell more than one hundred per cent or rather could not be sold from want of purchasers."²⁵

Gallatin, Jefferson's right hand man so far as the embargo was concerned, admitted low prices for agricultural products. Thus in his report, December 10, 1808, on the state of the finances, while speaking in favor of the loan policy for raising money for war, he gave tribute to the embargo, which was not all tribute by saying:

The embargo has brought into, and kept in the United States, almost all the floating property of the nation. And whilst the depreciated value of

²¹ *Massachusetts Spy. or Worcester Gazette*, December 28, 1808.

²² "Secret Reports of John Howe," *American Historical Review*, Vol. XVII, p. 90.

²³ *Ibid.*, pp. 93, 94.

²⁴ Anderson, D. R., *William Branch Giles*, pp. 144, 145.

²⁵ *History of South Carolina*, Vol. II, pp. 135, 136.

domestic products increases the difficulty of raising a considerable revenue by internal taxes, at no former time has there been so much specie, so much redundant unemployed capital, in the country. The high price of public stocks, and, indeed, of all species of stocks, the reduction of the public debt, the unimpaired credit of the General Government, and the large amount of existing bank stock in the United States leave no doubt of the practicability of obtaining the necessary loans on reasonable terms.²⁶

Even Jefferson, in unguarded moments, admitted that the embargo caused low prices, and that the expectation of its repeal caused prices to rise. On November 22, 1808, he wrote to W. A. Burwell to deny a story that he had obtained a high price for his tobacco by having an agent spread the report that the embargo was going to be lifted. He declared that if he bought off every Federalist lie by the sacrifice of two or three thousand dollars, he would after a "very few" purchases be "as bankrupt in reputation as in fortune."²⁷

This story was, of course, circulated in the papers. According to the account a few weeks before the meeting of Congress, a Mr. Coles of Albermarle received a letter from his brother, Jefferson's private secretary, stating that there was a prospect of an amicable settlement of differences with England. Mr. Coles sold his and the president's tobacco for seven dollars per hundred. "The price is now *four and a half dollars*," the article continued, "Mr. Jefferson will lose nothing by the embargo, whatever other people may do." The *Norfolk Ledger* article then concluded:

We have heard the circumstance stated before we saw the Richmond paper. We do not say that Mr. Jefferson would countenance any deception of this sort; and Mr. Coles (the secretary) no doubt thought and believed, as he wrote; but Mr. Jefferson was fortunate to sell at that time.²⁸

Jefferson himself, however, suffered from the measure he so slavishly supported. When he left the White House, he found it necessary to raise money through the aid of Abraham Venable, James Madison, and Charles Clay. He proposed selling two or three thousand acres of land, but probably because

²⁶ *Annals of Congress*, Vol. XIX, p. 1765.

²⁷ *Writings of Thomas Jefferson*, Vol. IX, p. 229.

²⁸ *Federal Gazette and Baltimore Daily Advertiser*, December 4, 1808.

of the difficulty of making a sale at a fair price, he asked for a year in which to dispose of the land.²⁹

Of course, there is a very intimate connection between the earning power of property and its value. If land is earning money, people are apt to bid against each other for that land, and the price per acre will naturally rise. The same statement will hold true for houses, business establishments, slaves, and other property which brings in money. On the other hand, if the property, whatever it may be, does not bring in its former return, the price is apt to fall. Farm land whose products are unsalable can not offer hopes of profitable investment. Since the price of the land itself fell, much suffering ensued even with those people who kept their land from the hands of the speculators. Proofs of these statements perhaps need not be given, yet some examples will be shown.

On November 25, James Lloyd of Massachusetts declared in the Senate that industry was paralyzed, that the produce was rotting on their hands, and that real estate was "nearly unsaleable."³⁰ On December 3, John Randolph of Roanoke declared in the House that produce was down and that land and slaves had fallen in value.³¹ Other instances from the congressional debates could be cited, but they appear superfluous.

Newspapers, of course, emphasized the low value of property due to the embargo. In Schoharie county, New York, horses, horned cattle, farming utensils, etc. "which in federal *Free Trade* times would have brought 800 dollars, were knocked off at only fifty-five dollars."³² Again, in a North Carolina county, according to the *Wilmington Gazette*, at sheriff's sales one thousand acres of land were sold for twelve dollars an acre, while four grown negroes, three horses and three beds were disposed of for ninety dollars.³³

Another effect of the embargo, apparent in some states, was the tendency to concentrate land in the hands of the wealthy. Thus we read:

²⁹ *Writings of Thomas Jefferson*, Vol. IX, pp. 240-242.

³⁰ *Annals of Congress*, Vol. XIX, p. 135.

³¹ *Ibid.*, p. 682.

³² *Boston Columbian Centinel*, June 15, 1808.

³³ *Catskill American Eagle*, January 11, 1809.

It is an ill wind that blows nobody good. The embargo although it destroys the poor and middling folks, will make our rich men richer. The small estates which must fall a sacrifice to it will be swallowed up by the large ones; and only two classes will remain—the great land holder, and his vassals.³⁴

Travellers in the country found the same conditions prevalent. When John Melish reached Savannah to clear up the wreck of a once prosperous business, he found that his goods were "disassorted" and would not bring half the original value and that other property had fallen. "Some landed property belonged to the concern," he said, "and some negroes (a species of commodity which I never wished to deal in) and these had fallen in value."³⁵

E. H. Derby, a writer in the *Atlantic Monthly*, said: "Many a rich man was ruined, many a prosperous town was utterly prostrated by the shock. Property, real and personal, fell from thirty to sixty per cent, affecting by its fall all classes of society."³⁶

H. A. Garland and other writers allude to the difficulty of transferring agricultural capital to manufactures as was done with the mercantile capital in the eastern states. Owners had to hold on to their depreciated and exhausted lands or be robbed by speculators. In pointing out the contrast between the North and South, Garland said:

The Southern people being wholly agricultural, could live a few years without the sale of their crops; but the Northern people, being mainly dependent on their labor and commerce, could not exist with an embargo of long duration. Hence we find a patient endurance of its evils on the part of the South, while a spirit of insurrection pervaded the people of the North. In this restless condition, much of their capital and labor were permanently directed to manufactures. The bounties offered by a total prohibition of foreign articles, stimulated this branch of business in a remarkable degree; and when the embargo, non-intercourse, and war ceased to operate as a bounty, they have had to be sustained by heavy duties imposed on foreign commerce, at the expense of the planting interest of the South, which is mainly dependent on a foreign market for the sale of its commodities. Every dollar taken from commerce, and invested in manufactures, was turning the current from a friendly into a hostile channel to that kind of agriculture which was dependent on foreign trade for

³⁴ Middletown (Conn.) *Middlesex Gazette*, July 14, 1808.

³⁵ Melish, John, *Travels*, p. 261.

³⁶ *Atlantic Monthly*, Vol. VII, p. 713.

its prosperity. The immediate effect of the embargo was to starve New England. Its more permanent consequence has been to build it up at the expense of the planting interest of the South. New England has now two sources of wealth, in her manufactures and commerce; while the South have still the only one of planting tobacco and cotton on exhausted lands, and with a reduced market for the sale of her commodities.³⁷

Hundreds of people attracted to an agricultural life by the high prices paid for farm products had bought land on credit. They expected to pay for this land by the sale of products at the usual high price, but the embargo interfered with their plans. From 1793 to 1807 flour averaged \$9.12 per barrel at Philadelphia; for the nine years previous it averaged \$5.41 and for the nine years following, \$5.46.³⁸ Much capital had been drawn into wheat farming by the prevalence of high prices; many people with insufficient capital had chosen this occupation in the hope of large rewards. Naturally, many of these were forced into bankruptcy. Some had bought land under the government act of 1800 which allowed one-fourth of the purchase price of two dollars per acre to be paid down and the balance in three annual installments. During the hard times of 1808 and the years following, many settlers failed and others found that they could scarcely meet their obligations.³⁹

As early as March 7, 1808, Robert Troup, in a letter from Albany to Rufus King, said: "In the Genesee county some farmers have been compelled to part with their wheat 1-6 per bushel to raise money to pay their taxes; all the streams that flowed into the treasury of the Pulteney land office in that country are nearly dried up."⁴⁰ Nathaniel Macon of North Carolina, one of the warmest friends of the embargo, confessed the need for ready money on March 14, 1808, by proposing that the committee on public lands "be instructed to inquire into the expediency of allowing an additional discount to purchasers of the public land for prompt payment," and his proposal was accepted by the House.⁴¹

³⁷ *The Life of John Randolph of Roanoke*, p. 268.

³⁸ Bogart, E. L., *Economic History of the United States*, p. 123.

³⁹ *Ibid.*, pp. 145, 146.

⁴⁰ *Life and Correspondence of Rufus King*, Vol. V, p. 86.

⁴¹ *House Journal, Tenth Congress*, pp. 224, 225.

Congress realized, as time passed on, the position of those who had bought public land on credit, and with little or no debate both Senate and House passed on March 1, 1809, a bill granting an extension of time of two years from date of last payment made. This bill was approved by Jefferson on March 2.⁴²

Other measures also show the difficult position of the country in 1808 and 1809. On March 10, 1808, and January 30, 1809, Jefferson approved measures extending terms of credit on revenue bonds while the embargo was in force.⁴³ Both Houses of Congress received petitions for the staying of debt collection. On January 9, 1809, Joseph Lewis of Virginia presented in the House a petition of Marshing Waring and other inhabitants of the District of Columbia asking "that all executions which have been or may be awarded against the petitioners and other inhabitants of the said District, may be stayed during the continuance of the embargo and non-intercourse laws of the United States," or if unallowable, that some other relief be granted.⁴⁴

John Melish, in describing his business failure in Savannah, declared that the outstanding debts, if collected at all, "could only be done at a labour, expense and loss of time that would probably be greater than the ultimate value of them." The courts of law, he declared, were suspended; hence, recovery by that means was slow and tedious as well as uncertain. He had 185 debtors scattered over a space of nearly two hundred square miles.⁴⁵

On November 16, Josiah Quincy recorded in his *Dairy* a conversation with John Randolph of Roanoke. The latter told him that the embargo was ruining Virginia, especially his county of Charlotte, where the justices kept open court and business progressed as usual. In other parts of the state, Randolph said, and he cited especially Albermarle County and Jefferson's neighborhood, the justices did not transact business. Such a course naturally checked, somewhat, the imme-

⁴² *Annals of Congress*, Vol. XIX, pp. 453, 1230, 1241, 1432, 1433, 1546, 1831 and 1832.

⁴³ *Ibid.*, Vol. XVIII, pp. 2837-2839; Vol. XIX, pp. 1807, 1808.

⁴⁴ *House Journal, Tenth Congress*, p. 456.

⁴⁵ Melish, John, *Travels*, p. 261.

diated pressure of the embargo and gave it some popularity with those who wanted an excuse for failure to pay debts. Randolph insisted that the people had been deluded by the embargo and that their support of the measure was due solely to patriotism and a "belief that it had its origin in the real good of the country."⁴⁶

Southern states met with great difficulty in enforcing the payment of debts. Virginia early suspended the levy of executions for a year, an act referred to by a Norfolk paper as "one of the glorious effects of the Embargo."⁴⁷ The people of North Carolina also early felt the effects of the embargo, and by common consent agreed to stop law. They would not allow any writ of execution levied or any goods sold at auction in pursuance of such writ.⁴⁸ A few months later a petition signed by 272 citizens of Grenville county was presented to the governor. The petition asked that the legislature might be "convened for the purpose of making some provisions against the distresses arising from the embargo."⁴⁹

Constant complaints evidently forced the legislature to act, for a New England paper declared: "*The embargo tells.*—A bill has been passed by the Legislature of North Carolina to suspend executions on contracts till the 31st of Dec. 1809."⁵⁰ Agitation was strong in South Carolina, but the legislature early refused to interfere between debtors and creditors. Even at that, however, debts could with difficulty be collected.⁵¹ Georgia passed a law to suspend the sale of property taken in execution, but only until September when it was thought that the embargo would be raised.⁵² The Georgia law was specifically admitted by an administration newspaper as being intended to alleviate the condition of debtors.⁵³

Very early we have this summary statement: "In some

⁴⁶ *Life of Josiah Quincy of Mass.*, by his son Edmund Quincy, pp. 143, 144.

⁴⁷ *Boston Columbian Centinel*, February 24, 1808.

⁴⁸ *Connecticut Courant*, March 16, 1808.

⁴⁹ *Rel's Philadelphia Gazette*, and *Daily Advertiser*, July 12, 1808.

⁵⁰ *Connecticut Courant*, January 11, 1809.

⁵¹ *National Intelligencer*, July 25, 1808.

⁵² *Connecticut Courant*, May 11, 1808.

⁵³ *Richmond Enquirer*, June 17, 1808.

states so deep and general is the ruin that the ordinary course of justice is suspended. . .'⁵⁴

The Legislature of this State," says a Baltimore paper, "have passed the Law for Staying Executions. This is another proof of the efficacy of the Terrapin System. . . When (says Mr. Randolph) I hear that the Court of King's Bench has been obliged to stay proceedings I shall believe that England may suffer as much in consequence of your embargo, as the people of this country now do."⁵⁵

Sometimes efforts were made to relieve the condition of the farmers by lending them money on the security of real estate. Thus the New York legislature authorized a loan of \$450,000 in amounts not exceeding five hundred dollars. The loan applied to every county in the state and was to be secured by real estate.⁵⁶ Creditors sometimes preferred produce, though declining in price, to the postponement of settlement. The following entry is taken from an administration newspaper:

The Embargo is No Excuse

The subscriber takes this method to inform those who are indebted to him, that he will receive Wheat, Corn, or Oats, in payment till the tenth of February next, when cash will be expected.—The embargo has not prevented the growth of produce—nor can it longer be a plea to procrastinate payments in grain. January 28, 1809. J. Monroe.⁵⁷

In New York, where executions were not stayed, the number of commitments to prison for debt increased. Thus a Troy item, dated January 17, reads:

Embargo Effects. It is a melancholy fact that there have been 291 commitments to the jail in this county for debt, since the 5th of March last: and (we are told by a person upon the limits) from 70 to 100 now remain confined, and within the yard. Previous to the passage of the destructive embargo, it was rare that the number of imprisoned debtors exceeded ten. Numbers are added almost daily to the above, and there is no knowing where it will end. In this way the *Embargo Tells*.⁵⁸

Under the title, "More Embargo Effects," another item adds:

The Humane Society of New York report, that, from the 31st Dec. 1808,

⁵⁴ Boston Gazette, May 26, 1808.

⁵⁵ Federal Republican and Commercial Gazette, December 16, 1808.

⁵⁶ Boston Gazette, April 21, 1808.

⁵⁷ Danville (Vt.) North Star, January 28, 1809.

⁵⁸ New England Palladium, January 27, 1809.

there have been imprisoned in the goal of the city, on Justices Executions only, 1317 persons! 591 of whom were females! and 726 males. In 1807, the number of prisoners upon the Society's list was 298; they have increased the last year to 1025. It is a remarkable fact that 970 of the above mentioned prisoners were confined for sums less than 10 dollars.⁵⁹

Such reports, stay laws, obstruction of justice, and exaggerated accounts of suffering were, no doubt, responsible for statements made in English papers. One of the monthly magazines declared in March, 1809:

We understand that the Government of the United States has enacted that no execution for debt shall be levied upon any one (Even though upon an actual judgment) before the 1st of January, 1810. The necessity for this measure has been occasioned by the pecuniary embarrassments consequent upon the Embargo.⁶⁰

Naturally enough, when people are in debt and in need of ready money, speculators find profitable business. Men of ability and shrewdness with ready cash or fair credit bought mortgaged land cheap and products that could be kept for a while "at a song".

On December 3, John Randolph of Roanoke insisted that Shylock with a single dollar now made as great a profit out of the suffering planter by purchasing as much actual property as before he could buy with two dollars. For this reason, so Randolph declared, dealers in mortgages and "five per cent per month men" were warm friends of the embargo.⁶¹ On December 27, James Sloan of New Jersey declared that the passage of resolutions reported by the committee on foreign relations looking towards a more stringent embargo law had, in a few days, "transferred an immense sum of money from the industrious yeomanry of the country to idle speculators and stock jobbers of both town and country."⁶² On February 2, Benjamin Tallmadge of Connecticut insisted that the prices of export articles would rise from ten to fifty per cent under a belief that the embargo was going to be raised. Postponement of the repeal, he argued, would prolong speculation which ought to be ended as speedily as possible.⁶³ About three

⁵⁹ *Ibid.*, March 3, 1809.

⁶⁰ *Gentleman's Magazine and Historical Chronicle*. Vol. 79, p. 270.

⁶¹ *Annals of Congress*, Vol. XIX, pp. 682, 683.

⁶² *Ibid.*, p. 925.

⁶³ *Ibid.*, p. 1305.

weeks later, February 20, in a speech already cited elsewhere, Randolph spoke against the encouragement of gambling through vacillation in the embargo policy.⁶⁴

Only two other instances of speculation, both from friends of the embargo, will be mentioned. The reader will readily recall the trouble occasioned Jefferson by the free way in which Governor Sullivan of Massachusetts, issued permits to import provisions. In a letter to Lieutenant-Governor Levi Lincoln, November 13, 1808, previously quoted, Jefferson stated that Sullivan's permits were openly bought and sold in Washington, Alexandria, and elsewhere.⁶⁵ The buyers, of course, were speculating in farm products. On December 28, Gallatin wrote Jefferson a letter, also previously quoted, stating that all the cotton in New York had "been purchased by speculators in Boston."⁶⁶ Since friends and foes of the embargo policy alike admitted speculation in various articles, further comment seems superfluous.

Representatives of the various states seemed to consider it a point of honor to claim that their state suffered more than other states. Even friends of the embargo, as already indicated, pointed out in pride that their states also suffered very severely but that they were more patriotic than the others. Opponents of the embargo answered that southerners as well as northerners watched every opportunity of violating the embargo laws, that their patriotism was of the lip and not in deed. David Ramsay's words are fairly typical of the attitude, and though they do not bear on agriculture alone, will be quoted at this time:

The price of produce instantly fell more than one hundred per cent, or rather could not be sold from want of purchasers. The labors of the past year were rendered unavailing to the relief of their owner though pressed with debt and threatened with executions. Factors, wharfingers, and others engaged in the transportation or sale of commodities, suddenly passed over from the full tide of employment to listless inactivity. A general stagnation of business in the midst of that bustling period which is called the crop season instantly took place. The distresses of individuals were

⁶⁴ *Ibid.*, p. 1475.

⁶⁵ *Writings of Thomas Jefferson*, Vol. IX, p. 227.

⁶⁶ *Writings of Albert Gallatin*, Vol. I, p. 448.

both the causes and effects of the distresses of others. A chain of suffering encircled the community. All this was magnanimously borne by a great majority of the inhabitants. Their reproaches fell not on the administrators or their own government but on the authors of British orders and French decrees. The Legislature of the State applauded the measures of the general government and their applause was re-echoed by the people. The discontent of a few evaporated in private murmurings, and did not produce a single public expression of disapprobation or impatience. While others contended that they suffered most from the embargo, the Carolinians with justice preferred their claim to the honor of bearing it best. History is confined to the relation of facts, and does not extend to conjectures on contingent events, or it might be added that if the embargo had been as faithfully observed and as patiently borne in every part of the Union as it was in Carolina, the issue would probably have been very different, and certainly more to the honor of the United States.⁶⁷

Just at this time it may be worth while to consider briefly ✓ the effects of the embargo on the different sections. The strongest opposition to the embargo, as already indicated, came from the New England States. In the northern states the bankruptcy laws were generally enforced; in the southern states they were not. The pressure accordingly seemed to be greater in the North. The New England carrying trade, as was mentioned in an earlier chapter, was practically destroyed, but a large part of this trade was carried for other sections of the country. In fact, so far as the effect on agriculture was concerned, New England probably suffered less than any other section, for she consumed most of her products. Moreover, abundant water power and the natural skill of the Yankee workman led to the rapid development of manufactures. This development enabled New England to supply other sections of the country with manufactured goods.

In considering the effect of the embargo on the farmer, we should, of course, consider the nature of his products. If they were perishable, the loss would be great; if they would keep indefinitely, his loss would be much smaller. Nevertheless, as previously indicated, practically all farmers suffered from low prices due to a glutting of the home markets and inability to reach the foreign markets. Heavy loss fell on the farmers of the Middle States. Their live stock depreciated in value though, of course, it did not have to be killed at once

⁶⁷ Ramsay, David, *History of South Carolina*, Vol. II, pp. 185, 186.

and grain could be fed to it. Wheat fell from two dollars a bushel to seventy-five cents, and was well-nigh unsalable at that. Shut off from a market for articles of export when imported articles were rising in value, the farmers of the Middle States were well-nigh forced to live off of the products of their own farms. Such a condition, however, was not nearly so difficult then as it would be now. Moreover, throughout the Middle States, as well as in New England, were small cities which furnished local markets of some worth. Again, as in New England, the stimulus given to manufactures offset in small part the disadvantages of the embargo. New York, Philadelphia, and Baltimore, as well as numerous other places, diverted capital from commerce to manufactures.

In all probability the embargo exerted its greatest pressure on the southern states, though many of the best authorities on the subject think otherwise. For instance, James Schouler, who says that the embargo may be compared to the amputation of a "limb in order to save life," declares that the lumber, tobacco, and rice owners did not suffer so much as those with more perishable products, and that an embargo of short duration would not show partiality.⁶⁸ Again Professor H. von Holst describes New England as industrially ruined:

"It was quite as easy to discover the proportion in which the different interests had to suffer. The planters' staple articles principally tobacco and cotton, remained unsold, but the planters themselves suffered relatively but little damage. They were sure of finding a market again as soon as the harbors were open. The farmers sold a considerable portion of their products in the country itself; the rest were for the most part a total loss. The productive industry of the New England fishermen, shipbuilders, ship owners, importers and exporters and all who depended on them, ceased almost entirely."⁶⁹

It was true, of course, that tobacco, cotton, rice, and many other important southern products were not immediately perishable. Their market, however, was greatly limited. Tobacco, to be sure, could be consumed at home, and it was to a large extent but at very low prices. Much of the cotton was

⁶⁸ *History of the United States under the Constitution*, Vol. II, pp. 180-183.

⁶⁹ *Constitutional and Political History of the United States*, Vol. I, p. 209.

likewise sold at home at the low embargo price, and thus helped stimulate northern manufactures. Rice, however, was not a particularly popular article of diet in the North. The people of the New England States preferred the wheat of the Middle States to the rice of the Carolinas or Georgia. Moreover, because of nearness, the surplus wheat and flour of New York, Pennsylvania, and New Jersey were given some preference over the wheat of Maryland, Virginia and states still further south. Again, it must be kept in mind that the farms of the South were much larger than those of the New England and Middle States, and not usually self-sufficing. Big plantations, because of slave labor stuck closely to such staple products as tobacco, cotton, and rice. With the proceeds of the year's crops planters paid debts of years' standing and bought the necessities for the next year. Obviously, anything interfering with this practice wrought hardships on the planters. Moreover, southern society was less flexible than northern society. In New England and the Middle States the people had a fairly good idea of economy and how to practice it. This was hardly true in the South. Many people there had never heard of the word; few knew how to practice it. They went on buying, going deeper and deeper into debt, with thought of the morrow perhaps, yet without knowledge of a way to meet the situation. State legislatures recognized the difficulty; hence we have the stay laws. Now at the same time that products for exports were going down, imported articles were rising in price and the planters were buying as of yore. Moreover, the value of the land, never so great as in the North, was depreciating rapidly. Again, slaves, the peculiar property of the South, were likewise going down in value.

New England commercial capital was fluid and could be easily diverted to manufactures. Southern capital, tied up in land and slaves could, with difficulty, be diverted to manufactures, though efforts were made in that direction and domestic manufactures received a considerable impetus. Again, it must be born in mind that the South was not so favored by water power, climate, and fuel for manufactures as the North. Moreover, the southerner himself lacked the versatility and progressiveness of his northern brother, while his

slaves were not considered capable of diversified farming, let alone manufacturing. Furthermore, while these same slaves were largely fed with southern food stuffs, they were not entirely clothed with southern manufactures. Deprived of English manufactures to some extent, the South helped encourage northern manufactures by supplying cheap cotton and buying the manufactured product. It is not necessary, however, to go all the way with Henry Adams who emphasized the evil effects too much. He wrote:

The true burden of the embargo fell on the Southern States, but most severely upon the great State of Virginia. Slowly decaying, but still half patriarchal, Virginia society could neither economize nor liquidate. Tobacco was worthless; but four hundred thousand negro slaves must be clothed and fed, great establishments must be kept up, the social scale of living could not be reduced, and even bankruptcy could not clear a large landed estate without creating new encumbrances in a country where land and negroes were the only forms of property on which money could be raised. Stay laws were tried, but served only to prolong the agony. With astonishing rapidity Virginia succumbed to ruin, while continuing to support the system that was draining her strength. No episode in American history was more touching than the generous devotion with which Virginia clung to the embargo, and drained the poison which her own President held obstinately to her lips. The cotton and rice States had less to lose, and could more easily bear bankruptcy; ruin was to them—except in Charleston—a word of little meaning; but the old society of Virginia could never be restored. Amid the harsh warnings of John Randolph it saw its agonies approach; and its last representative, heir to all its honors and dignities, President Jefferson himself, woke from his long dream of power only to find his own fortunes buried in the ruin he had made.⁷⁰

At the opposite extreme stands Professor Edward Channing, who underestimated the evil effects of the embargo. He contended that the evil effects of that measure were grossly overstated. One quotation will be given to show the difference of opinion between him and Adams. Said Channing:

The conditions of Virginia life forbade any such supposition as that which even so calm a writer as Mr. Adams permitted himself to make. Tobacco was not a perishable commodity like peaches or pears; it could be kept, when properly cured for several years. The domestic tobacco market remained open during this time. The great Virginia plantations were practically self-sustaining, so far as the actual necessities of life were concerned; the slaves had to be clothed and fed whether tobacco and

⁷⁰ *History of the United States*, Vol. IV, pp. 281, 282.

wheat could be sold or not, but they produced, with the exception of the raw material for making their garments, practically all that was essential to their well-being. The money which the Virginia planters received for their staple products was used to purchase articles of luxury—wine for the men, articles of apparel for the women, furnishings for the house, and things of that kind, and to pay the interest on the load of indebtedness which the Virginia aristocracy owed at home and abroad. It is doubtless true, although not susceptible of absolute proof, that Virginia society was already honey-combed with extravagance and debt. Its ruin was already begun; the embargo, so far as it operated to instil ideas of economy into the heads of those whom Josiah Quincy termed the 'lordlings of Virginia' was a positive benefit.⁷¹

Many people think that the noise made, the complaints uttered, and the number of law violations measure the injuries inflicted by an oppressive law. Judged by that standard, New England and New York suffered most from the embargo. That standard, however, is crooked. New England was the stronghold of the Federalists, the opposition party, and that fact alone explains a whole lot. From the dawn of history, and if we may judge by human nature, to the millenium, the opposition party has condemned and will condemn the party in power wherever possible, if for no other reason than a desire to regain office. A large part of the opposition to the embargo in the North was thus political; on the other hand, the main reason for its support in the South was political. Jefferson and most of the friends of the embargo came from the South. Again, it should be borne in mind that, as time passed, the opinion developed in all parts of the country that the embargo was directed against England primarily. Since the Federalists sympathized with England, they found an added, though an unpatriotic reason, for opposing the embargo. They wished to be on good terms with Great Britain, for that country, by her control of the sea, could regulate commerce, and, if she desired, could inflict far greater injuries on the American carrying trade than could France. Befriended by England, that carrying trade would be immensely profitable. In the South the carrying trade was too small to occasion much worry. The trouble there was largely the low price of real estate, slaves, and farm

⁷¹ *Jeffersonian System*, pp. 217, 218.

products. England was regarded as the enemy. France was more of a friend, for Jefferson and others who had been in France still remembered French associations and the help given by that country during the Revolutionary War. Again, the ravages of the British army in the South had been greater than in the New England States; hence the hatred of England was deep seated. Thus, believing that the embargo was directed against Great Britain, the South supported it for the very reason that New England opposed it. Moreover, the very character of southern society, aristocratic and hence undemocratic, blinded the southerners to the dangers from Napoleon and his empire. The democratic town meetings, hotbeds of discussion, were not found in the South as in New England.

Largely for political reasons then, the South bore the pressure of the embargo with more patience than the North, but the suffering was perhaps greater, though the noise was less. In the North, smuggling and riots were common; in the South riots were uncommon, but smuggling was carried on, though to a lesser extent than in the North, for the opportunities of law violation were smaller. For that very reason then, the suffering was perhaps greater. David Ramsay, while pointing out the extreme hardships occasioned by the embargo, insisted that if the other states had observed the measure as cheerfully and faithfully as South Carolina, "the issue would probably have been very different, and certainly more to the honor of the United States."⁷² The reader then, because complaints were few at first, should not think that the embargo pressed lightly on the South. Political ties, hatred of England, and the very character of southern society led to the support of the embargo even when the weight of that measure was falling with crushing force on most classes of the population.

In concluding the discussion of the effect on agriculture, it seems almost superfluous to point out in summary that unlike the case with manufactures, the embargo injured agriculture and the farmers as a whole.⁷³ Prices of agricultural products

⁷² *History of South Carolina*, Vol. II, p. 136.

⁷³ It is possible, of course, to give exceptions as in the case of the hemp growers in the West. Even there, however, the price of hemp was low. In 1810 in the

went down, imported articles went up, land and slaves depreciated in value, mortgages were foreclosed or stay laws were forced through, speculators thrived by buying up products from farmers at low prices, and money lenders obtained exorbitant interest. In short, many a large estate was lost in whole or in part, many an aristocratic planter went to the wall, and many a poor farmer with his wife and children suffered for the actual necessities of life in the way of clothing, if not of food. With his products well nigh unsalable and his credit poor, the farmer certainly had "a hard row to hoe."

state of Kentucky 11,510,000 pounds of hemp were valued at \$690,600 and the 8,987,000 pounds of cordage at \$398,400. People, because of low prices and the difficulty of transportation, soon turned their attention to the culture of tobacco (Pitkin, Timothy, *Statistical View*, p. 285).

CHAPTER IX

EFFECT OF THE EMBARGO ON COMMERCE

The effect of the embargo on the carrying trade was at once apparent. In considering figures it must be borne in mind that the customs year ended September 30; hence no one year shows the full effect of the embargo, for that measure was enacted in December of 1807 and repealed in March of 1809. The comparisons of 1807 and 1808, however, partially show the difference; hence they will be used here. In 1807 the sugar exported amounted to 143,136,905 pounds; in 1808 to 28,974,927. The figures for coffee stood at 42,122,573 pounds and 7,325,448; for pepper, 4,207,166 pounds and 1,709,978; and for cocoa, 8,540,524 pounds and 1,896,990. Exportation of other products was down in about the same proportion. The total value of exports in 1807 was \$108,343,150 and in 1808, \$22,430,960.¹ The duties on goods principally ad valorem, fell from \$18,971,539 in 1807 to \$4,765,737 in 1808.²

An examination of the trade of the United States, with the leading countries of the world is worth considering at this time. In 1807 the value of our exports of domestic origin to Great Britain and Ireland was \$21,122,332; in 1808, \$3,093,978; exports of foreign produce fell from \$2,027,650 in 1807 to \$106,327 in 1808. The total value of our exports to those countries thus declined from \$23,149,982 in 1807 to \$3,200,305 in 1808. In the following year exports of domestic produce increased to \$5,326,194 and of foreign produce to \$239,405, a combined total of \$5,565,599. Our dutied imports from Great Britain and Ireland fell from \$38,901,838 to \$18,818,882 in 1808 and to \$17,647,542 in 1803. A casual glance shows that while we sold Great Britain only about one eighth as much as formerly, we bought nearly half as much as we had

¹ Pitkin, Timothy, *Statistical View of the United States*, p. 81.

² *Ibid.*, p. 167.

³ *Ibid.*, pp. 201, 202.

bought in previous times. The direct trade of the United States with the British West Indies was cut down very much by the embargo, whereas the trade of Canada increased. The total value of the exports from Quebec to the British West Indies in 1806 was £551,570 6s. 3d.; in 1810, it was £1,079,474 11s. 6d. Lumber exports increased during this period from £110,740 11s. 6d. to £505,689 15s. 6d. The exports of grain, provisions, pot and pearl ashes also increased. Much of this was due to the clandestine trade between Canada and the United States. Moreover, many citizens of the United States, especially those interested in the lumber trade, deprived of employment at home, went to Canada and New Brunswick to find work.⁴

The value of the domestic produce exported to France fell from \$2,715,141 in 1807 to \$708,670 in 1808, while the value of the exports of foreign produce fell from \$10,315,678 to \$2,126,396. The combined values thus decreased from \$13,030,819 in 1807 to \$2,835,066. There were no direct exports in 1809, and in the following year the domestic exports were valued at \$16,782, and the foreign exports at \$1,672, or the insignificant total of \$18,454. England, by her control of the sea, managed to gain possession of the French West Indies in 1807, and retained them until general peace was restored in Europe. Our domestic exports to the French West Indies were worth \$2,901,516 in 1807 and \$165,232 in 1814; our exports of foreign origin in the same years were worth \$2,968,816 and \$12,947. Trade, virtually annihilated by embargo and war, picked up to some extent after the French regained possession.⁵

In 1807, the value of exports of domestic produce to Spain was \$1,181,231 and of foreign produce was \$3,547,907; in 1808 these totals fell to \$541,378 and \$901,003. The combined values thus decreased from \$4,729,138 in 1807 to \$1,442,381 in 1808. Our exports to the Spanish West Indies and American colonies likewise decreased. The value of exports of domestic produce fell from \$2,470,472 in 1807 to \$631,086 in 1808, while the value of exports of foreign origin declined

⁴ *Ibid.*, p. 219.

⁵ *Ibid.*, pp. 222-226.

from \$9,870,753 to \$3,545,967. The totals thus fell from \$12,341,225 to \$4,177,053.⁶ In 1809 they were back to \$3,352,271 for the domestic, \$3,333,346 for the foreign, and \$6,685,617 for both.

The exports to Portugal of domestic origin fell from \$829,313 in 1807 to \$342,277 in 1808. Unlike the case with France and Spain, our exports of foreign origin were worth less than those of domestic origin. The former were worth \$159,173 in 1807 and apparently nothing in 1808. Trade declined, because of the embargo, from \$988,486 in 1807 to \$342,277 in 1808. During the American non-intercourse acts, numerous articles ultimately destined to Great Britain and other European countries went to Portuguese possessions. In 1809, the value of domestic produce, consisting largely of cotton, shipped to Madeira was \$2,336,656; the value of the produce shipped to Fayal and the other Azores, also largely cotton, was \$2,926,482. After the action of Napoleon had caused the Portuguese government to move to Brazil, our trade with Portuguese America increased. In 1807 it was worth about five thousand dollars; in 1809 almost nine hundred thousand and in 1810 over one million six hundred thousand. Figures were not given by Pitkin for 1808, but in 1809 the value of the exports of domestic produce was \$540,653 and of foreign produce \$343,082. The next year the figures stood at \$721,899 and \$889,839.⁷

Before the embargo was passed, the United States was trying to coax into growth a sickly trade with Russia. In 1807 the exports of domestic origin were worth \$78,850 and of foreign origin \$366,367; in 1808 no exports of either domestic or foreign origin were recorded. The next three years, however, saw a rapid growth until the trade was checked by the outbreak of the War of 1812. In 1809, exports of domestic origin were worth \$146,462 and of foreign origin \$737,799; in 1810, the figures stood \$1,048,762 and \$2,926,936; in 1811, they were \$1,630,499 and \$4,507,158.⁸

With Sweden the ordinary trade of the United States was

⁶ *Ibid.*, pp. 227-229.

⁷ *Ibid.*, pp. 231, 232.

⁸ *Ibid.*, p. 233.

small. After the repeal of the embargo, though, the trade increased. Much of this was in cotton, in all probability destined for Great Britain, and in colonial produce intended for northern Europe. In 1809, the value of domestic exports, largely cotton and tobacco, regularly cleared for Swedish ports was \$4,030,395, and the value of foreign produce was \$1,409,303; in 1810, the figures were \$1,563,336 and \$4,294,397. From nearly six millions in 1810, however, the total dropped to \$240,807 in 1815; \$204,066 of this was in exports of domestic origin. In 1807 the exports of domestic produce shipped to the West Indies amounted to \$416,509 and the exports of foreign produce to \$911,155. With the embargo, these, of course, declined, but with the partial repeal, exports increased again. In 1809, our exports of domestic produce to the Swedish West Indies were valued at \$2,757,859 and of foreign produce at \$887,960.⁹

The value of our exports to Denmark and Norway was, for domestic produce, \$572,150 and for foreign produce \$836,468 in 1807; in 1809 the figures were \$958,584 and \$3,327,766; and in 1810, \$3,962,739 and \$6,548,051. These figures, as in other cases, simply showed that commerce untrammelled by commercial restrictions would find new outlets. They indicate also that much of the trade was intended for countries other than those to which the goods were shipped. Our exports to the Danish West Indies, in common with other places, were lowered by the embargo and by the War of 1812. In 1807 the domestic exports were valued at \$1,614,711 and the foreign exports at \$1,505,988; in 1815 the figures stood at \$496,249 and \$47,720.¹⁰

Our exports to Hamburg, Bremen, other Hanse towns and the ports of Germany, but largely to Hamburg, were greatly handicapped by the embargo. In 1807, the value of exports of domestic produce was \$912,225 and of foreign produce \$2,248,057; in 1808 the figures were \$24,963 and \$204,852; and in 1809, \$709,981 and \$1,682,662. The figures for the three years thus amounted to \$3,160,282, \$229,815, and \$2,392,643.¹¹

⁹ *Ibid.*, pp. 236, 237.

¹⁰ *Ibid.*, pp. 237-239.

¹¹ *Ibid.*, p. 241.

Our profitable export trade with Holland was well-nigh wrecked by the embargo. In 1807 the value of the exports of domestic origin was \$3,098,234 and of foreign produce \$13,086,160; in 1808, the figures were \$382,121 and \$2,227,722; in 1809, \$421,294 and \$697,070; in 1810, \$74,194 and \$28,992; and in 1811 apparently nothing. They thus fell from \$16,184,394 in 1807 to \$2,609,843 in 1808, to \$1,118,364 in 1809, to \$103,186 in 1810. Exports did not reach a third of the value recorded in 1810 until after the war of 1812 had closed. In 1815, however they passed the four million dollar mark again. Our exports to the Dutch West Indies and American colonies decreased in much the same proportion. In 1807, the exports of domestic produce to these possessions amounted to \$496,010 and of foreign produce to \$307,366; in 1808, the figures were \$97,734 and \$14,839; in 1809, \$33,412 and \$771; and in 1810 \$39,724 and \$31. The totals thus decreased from \$803,376 to \$112,573 to \$34,183 and then rose in 1810 to \$39,755.¹²

Our domestic exports to Italy were valued at \$250,257 and our exports of foreign origin at \$5,499,722 in 1807. In 1808 the figures were \$58,085 and \$1,312,173; in 1809, \$49,206 and \$1,106,539. The totals stood at \$5,749,979; \$1,370,258; and \$728,494. The latter figure was not again reached until 1816 when it was doubled.¹³ Other countries such as China might be considered, but the trade was inconsiderable and showed the same general effects from the embargo as those already considered. Before passing on to the particular products and different states, however, part of a table given in Chapter I will be duplicated.¹⁴

¹² *Ibid.*, pp. 241-244.

¹³ *Ibid.*, p. 246.

¹⁴ *Ibid.*, pp. 275, 276.

Exports from the United States to

	<i>Europe</i>		<i>Asia</i>	
	<i>Domestic</i>	<i>Foreign</i>	<i>Domestic</i>	<i>Foreign</i>
1807	\$31,012,947	\$38,882,633	\$ 497,769	\$ 1,598,445
1808	5,185,720	7,202,232	26,649	267,542
1809	17,838,502	13,072,045	703,900	1,218,228
1810	27,202,534	17,786,614	377,795	406,646

	<i>Africa</i>		<i>West Indies,</i>	<i>Amer. Cont., etc.</i>
	<i>Domestic</i>	<i>Foreign</i>	<i>Domestic</i>	<i>Foreign</i>
1807	\$ 1,296,875	\$ 1,627,177	\$15,892,501	\$17,535,303
1808	278,544	218,950	3,939,633	5,308,690
1809	3,132,687	1,472,819	9,732,613	5,034,439
1810	2,549,744	722,777	12,236,602	5,475,258

A casual glance at this table will show that in both 1807 and 1808 the value of the exports of foreign origin was greater than the value of domestic products. It is thus apparent that the section carrying the largest part of these foreign products would make the largest profits and would protest loudest when that trade was interfered with. As the reader already knows, the noise came largely from New England and New York.

Just at this time it seems advisable to examine some of the leading exports of the country 1806-1810. This may be done under four heads: products of the sea, products of the forest, products of the farm, and manufactures. The use of tables tends to simplify matters; hence they will be used very freely:

Fish Exports¹⁵

<i>Year</i>	<i>Dried Fish quintals</i>	<i>Pickled Fish barrels</i>	<i>Pickled Fish kegs</i>
1806	537,457	64,615	10,155
1807	473,924	57,621	13,743
1808	155,808	18,957	3,036
1809	345,648	54,777	9,380
1810	280,804	34,674	5,964

<i>Year</i>	<i>Value of Cod or Dried Fish</i>	<i>Value of Pickled Fish</i>	<i>Total for Produce of Sea</i>
1806	\$2,150,000	\$366,000	\$3,116,000
1807	1,896,000	302,000	2,804,000
1808	623,000	98,000	832,000
1809	1,123,000	282,000	1,710,000
1810	913,000	214,000	1,481,000

¹⁵ *Ibid.*, pp. 40-47.

Our profitable export trade with Holland was well-nigh wrecked by the embargo. In 1807 the value of the exports of domestic origin was \$3,098,234 and of foreign produce \$13,086,160; in 1808, the figures were \$382,121 and \$2,227,722; in 1809, \$421,294 and \$697,070; in 1810, \$74,194 and \$28,992; and in 1811 apparently nothing. They thus fell from \$16,184,394 in 1807 to \$2,609,843 in 1808, to \$1,118,364 in 1809, to \$103,186 in 1810. Exports did not reach a third of the value recorded in 1810 until after the war of 1812 had closed. In 1815, however, they passed the four million dollar mark again. Our exports to the Dutch West Indies and American colonies decreased in much the same proportion. In 1807, the exports of domestic produce to these possessions amounted to \$496,010 and of foreign produce to \$307,366; in 1808, the figures were \$97,734 and \$14,839; in 1809, \$33,412 and \$771; and in 1810, \$39,724 and \$31. The totals thus decreased from \$803,376 to \$112,573 to \$34,183 and then rose in 1810 to \$39,755.¹²

Our domestic exports to Italy were valued at \$250,257 and our exports of foreign origin at \$5,499,722 in 1807. In 1808 the figures were \$58,085 and \$1,312,173; in 1809, \$49,206 and \$1,106,539. The totals stood at \$5,749,979; \$1,370,258; and \$728,494. The latter figure was not again reached until 1816 when it was doubled.¹³ Other countries such as China might be considered, but the trade was inconsiderable and showed the same general effects from the embargo as those already considered. Before passing on to the particular products and different states, however, part of a table given in Chapter I will be duplicated.¹⁴

¹² *Ibid.*, pp. 241-244.

¹³ *Ibid.*, p. 246.

¹⁴ *Ibid.*, pp. 275, 276.

Exports from the United States to

	<i>Europe</i>		<i>Asia</i>	
	<i>Domestic</i>	<i>Foreign</i>	<i>Domestic</i>	<i>Foreign</i>
1807	\$31,012,947	\$38,882,633	\$ 497,769	\$ 1,598,445
1808	5,185,720	7,202,232	26,649	267,542
1809	17,838,502	13,072,045	703,900	1,218,228
1810	27,202,534	17,786,614	377,795	406,646

	<i>Africa</i>		<i>West Indies, Domestic</i>	<i>Amer. Cont., etc. Foreign</i>
	<i>Domestic</i>	<i>Foreign</i>		
1807	\$ 1,296,375	\$ 1,627,177	\$15,892,501	\$17,535,303
1808	278,544	218,950	3,939,633	5,308,690
1809	3,132,687	1,472,819	9,732,613	5,034,439
1810	2,549,744	722,777	12,236,602	5,475,258

A casual glance at this table will show that in both 1807 and 1808 the value of the exports of foreign origin was greater than the value of domestic products. It is thus apparent that the section carrying the largest part of these foreign products would make the largest profits and would protest loudest when that trade was interfered with. As the reader already knows, the noise came largely from New England and New York.

Just at this time it seems advisable to examine some of the leading exports of the country 1806-1810. This may be done under four heads: products of the sea, products of the forest, products of the farm, and manufactures. The use of tables tends to simplify matters; hence they will be used very freely:

Fish Exports¹⁵

<i>Year</i>	<i>Dried Fish quintals</i>	<i>Pickled Fish barrels</i>	<i>Pickled Fish kegs</i>
1806	537,457	64,615	10,155
1807	473,924	57,621	13,743
1808	155,808	18,957	3,036
1809	345,648	54,777	9,380
1810	280,804	34,674	5,964

<i>Year</i>	<i>Value of Cod or Dried Fish</i>	<i>Value of Pickled Fish</i>	<i>Total for Produce of Sea</i>
1806	\$2,150,000	\$366,000	\$3,116,000
1807	1,896,000	302,000	2,804,000
1808	623,000	98,000	832,000
1809	1,123,000	282,000	1,710,000
1810	913,000	214,000	1,481,000

¹⁵ *Ibid.*, pp. 40-47.

The last column includes the value of the whale fisheries also. The value of the common whale oil and bone for the years mentioned above was \$418,000; \$476,000; \$88,000; \$169,000; and \$222,000. For the same years the value of the spermaceti oil and candles was \$182,000; \$130,000; \$33,000; \$136,000; and \$132,000.¹⁶

The value of the principal exports of the forest and their combined value may likewise be shown by table:

Exports of the Forest¹⁷

<i>Year</i>	<i>Lumber of all kinds</i>	<i>Naval stores</i>	<i>Pot and Pearl Ashes</i>	<i>Furs and skins</i>
1806	\$2,495,000	\$409,000	\$ 935,000	\$841,000
1807	2,637,000	335,000	1,490,000	852,000
1808	723,000	102,000	408,000	161,000
1809	1,843,000	737,000	1,506,000	332,000
1810	2,537,000	473,000	1,579,000	177,000

<i>Year</i>	<i>Ginseng</i>	<i>Oak bark and other dyes</i>	<i>Total value</i>
1806	\$139,000	\$42,000	\$4,861,000
1807	143,000	19,000	5,476,000
1808	-----	5,000	1,399,000
1809	136,000	29,000	4,583,000
1810	140,000	72,000	4,978,000

The following tables show the amount and value of the leading exports of vegetable food:¹⁸

<i>Year</i>	<i>Wheat bushels</i>	<i>Flour barrels</i>	<i>Value of both</i>	<i>Rice tierces</i>	<i>Value</i>
1806	86,784	782,724	\$ 6,867,000	102,627	\$2,617,000
1807	766,814	1,249,819	10,753,000	94,692	2,367,000
1808	87,330	263,813	1,936,000	9,228	221,000
1809	393,889	846,247	5,944,000	116,907	2,104,000
1810	325,924	798,431	6,846,000	131,341	2,626,000

<i>Year</i>	<i>Corn bushels</i>	<i>Meal bushels</i>	<i>Value of both</i>	<i>Total value of vegetable exports</i>
1806	1,064,263	108,342	\$1,286,000	\$11,850,000
1807	1,018,721	136,460	987,000	14,432,000
1808	249,533	30,818	298,000	2,550,000
1809	522,047	57,260	547,000	8,751,000
1810	1,054,252	86,744	1,138,000	10,750,000

¹⁶ *Ibid.*, p. 46.

¹⁷ *Ibid.*, pp. 49, 50.

¹⁸ *Ibid.*, pp. 109-123.

Beef, pork, tallow, hams, butter and cheese, lard, live cattle, and horses were considerable articles of export from the United States, especially from some of the northern states where the land was better adapted for grazing. The following table shows the amount and value of these exports:

Produce of Animals ¹⁹				
<i>Year</i>	<i>Beef barrels</i>	<i>Pork barrels</i>	<i>Beef, tallow, hides and live cattle</i>	<i>Butter and cheese</i>
1806	117,419	36,277	\$1,360,000	\$481,000
1807	84,209	39,247	1,108,000	490,000
1808	20,101	15,478	265,000	196,000
1809	28,555	42,652	425,000	264,000
1810	47,699	37,209	747,000	318,000
<i>Year</i>	<i>Pork, bacon, lard and live stock</i>	<i>Horses and mules</i>	<i>Sheep</i>	<i>Aggregate value</i>
1806	\$1,096,000	\$321,000	\$16,000	\$3,274,000
1807	1,157,000	317,000	14,000	3,086,000
1808	398,000	105,000	4,000	968,000
1809	1,001,000	113,000	8,000	1,811,000
1810	907,000	185,000	12,000	2,169,000

Tobacco was produced principally in Maryland and Virginia, and found its markets chiefly in Great Britain, France, Holland, and northern Europe in normal times. The following table shows the form in which tobacco was exported and the value of that sent out in the raw state:

Tobacco ²⁰				
<i>Year</i>	<i>Hogsheads</i>	<i>Manufactured, lbs.</i>	<i>Snuff, lbs.</i>	<i>Value of raw</i>
1806	83,186	385,727	42,212	\$6,572,000
1807	62,186	236,004	59,768	5,476,000
1808	9,576	26,656	25,845	833,000
1809	53,921	314,880	35,955	3,774,000
1810	84,134	495,427	46,640	5,048,000

Most of the cotton exported from the United States went to Great Britain. During the continuance of commercial restrictions, the largest part of cotton reached Great Britain by way of the Floridas, the Azores, Madeira, Spain, Portugal, and Sweden. The following table shows the amount of cotton exported and its value:

¹⁹ *Ibid.*, pp. 124-126.

²⁰ *Ibid.*, pp. 127-129.

Cotton²¹

<i>Year</i>	<i>Sea island pounds</i>	<i>Upland pounds</i>	<i>Value</i>	<i>Amount to Great Britain</i>	<i>Amount to France</i>
				<i>pounds</i>	
1806	6,096,082	29,561,382	\$ 8,332,000	24,256,457	7,082,118
1807	8,926,011	55,018,448	14,232,000	53,180,211	6,114,358
1808	949,051	9,681,384	2,221,000	7,992,593	2,087,450
1809	8,654,213	42,326,042	8,515,000	13,365,987	None direct
1810	8,604,078	84,657,384	15,108,000	36,171,915	None direct

Other agricultural exports were flax seed, indigo, wax, flax, and poultry. The former was the most important and will be the only one considered here. It went for the most part to Ireland. The exports amounted to 352,280 bushels in 1806 and were valued at \$529,000. For the four following years the totals stood: 1807—301,242 and \$452,000; 1808—102,930 and \$131,000; 1809—184,311 and \$230,000; and 1810—240,579 and \$301,000.²²

The exports of manufactures fell into two principal classes: those made from domestic materials and those made from foreign materials. In the first class were such things as soap, tallow candles, leather, boots, shoes, saddlery, hats, manufactures of grain (spirits, beer, starch, etc.), manufactures of wood (furniture, couches, etc.), cordage, canvass, linseed oil, iron, snuff, silk shoes, wax candles, tobacco, lead, bricks, turpentine, spirits, wool and cotton cards, etc. In the second class came spirits made from molasses, refined sugar, chocolate, gun powder, brass, copper, and medicine, etc. The value of both kinds of manufactures is shown by the table.²³

<i>Year</i>	<i>From domestic materials</i>	<i>Manufactures foreign material</i>	<i>Value of both</i>
1806	\$1,889,000	\$818,000	\$2,707,000
1807	1,652,000	468,000	2,120,000
1808	309,000	35,000	344,000
1809	1,266,000	240,000	1,506,000
1810	1,359,000	558,000	1,917,000

By way of recapitulation, the following summary is offered:

²¹ *Ibid.*, pp. 130-139.

²² *Ibid.*, pp. 140, 141.

²³ *Ibid.*, p. 144.

Exports of Domestic Origin²⁴

<i>Year</i>	<i>Of Sea</i>	<i>Of Forest</i>	<i>Of Agriculture</i>	<i>Of Manufactures</i>
1806	\$3,116,000	\$4,861,000	\$30,125,000	\$2,707,000
1807	2,804,000	5,476,000	37,832,000	2,120,000
1808	832,000	1,399,000	6,746,000	344,000
1809	1,710,000	4,583,000	23,234,000	1,506,000
1810	1,481,000	4,978,000	33,502,000	1,917,000
<i>Year</i>	<i>Total domestic origin</i>	<i>Total foreign origin</i>	<i>Grand total</i>	
1806	\$41,253,727	\$60,283,236	\$101,536,963	
1807	48,699,592	59,643,558	108,343,150	
1808	9,433,546	12,997,414	22,430,960	
1809	31,405,702	20,797,531	52,203,233	
1810	42,366,675	24,391,295	66,757,970	

It seems advisable, further, to consider the decreases in the different articles of domestic produce as they affected the different parts of the country. A large part of the fishery and forest products came from New England and New York. The decline in the value of the products of the sea was from \$2,804,000 in 1807 to \$832,000 in 1808, or 70 per cent; in products of the forest it was from \$5,476,000 to \$1,399,000, or 74 per cent. In 1807 the value of the raw tobacco exported was the same as that of the lumber, \$5,476,000, but it fell to \$833,000 in 1808 or 85 per cent. Practically all of the tobacco came from Virginia and Maryland. The value of the cotton exported in 1807, practically double the value of the sea and forest exports, fell from \$14,232,000 to \$2,221,000, or 84 per cent. Cotton, of course, was largely a product of the states south of Virginia. The exports of wheat and flour fell in value from \$10,753,000 in 1807 to \$1,936,000 in 1808, or 82 per cent. It will, of course, be remembered that the great wheat producing states were then Virginia and Maryland as well as Pennsylvania and New York. Rice, exclusively a southern product, fell in export value from \$2,367,000 to \$221,000, or 90 per cent. The value of the corn and meal exported, never very great but produced in the South as well as in the North, fell from \$987,000 to \$298,000, or 70 per cent. The aggregate value of animal produce exported, common to all sections of the country, but particularly the North, fell from \$3,086,000 to \$968,000 or 69 per cent. The total value of agricultural

²⁴ *Ibid.*, pp. 36, 37, 145, 146.

exports fell from \$37,832,000 to \$6,746,000, or 82 per cent. Since the exports of cotton and raw tobacco alone make up over half the value of agricultural exports in 1807, it will scarcely be denied that the South suffered most from the embargo in so far as it affected immediate agricultural exports. This belief is strengthened by the fact that the exportation of both of these articles decreased more than did northern products. In fact, the writer believes that more than half of the loss occasioned agricultural interests by the embargo fell on the southern farmers. The export of manufactures, well nigh negligible, but largely limited to the states north of the Mason and Dixon line, fell from \$2,120,000 to \$344,000, or 83 per cent, a smaller loss than occurred in either cotton or tobacco. From these figures, considered as a whole, it seems probable that the loss in domestic exports occasioned by the embargo south of the Mason and Dixon line was greater than the loss north of that line.

The following tables show the value of the total exports, the exports of domestic products, and the exports of foreign products for each state of the Union, 1806-1810:

States and Territories	Total Exports ²⁵				
	1806	1807	1808	1809	1810
N. H.	\$ 795,263	\$ 680,022	\$ 125,059	\$ 286,595	\$ 234,650
Vt.	193,775	204,285	108,772	175,782	432,631
Mass.	21,199,243	20,112,125	5,128,322	12,142,293	13,013,048
R. I.	2,091,835	1,657,565	242,034	1,284,532	1,331,576
Conn.	1,715,828	1,624,727	413,691	666,513	768,643
N. Y.	21,762,845	26,357,936	5,606,058	12,581,562	17,242,330
N. J.	33,867	41,186	20,799	319,175	430,267
Penn.	17,574,702	16,864,744	4,013,330	9,049,241	10,993,398
Del.	500,106	229,275	108,735	138,036	120,342
Md.	14,580,905	14,298,984	2,721,106	6,627,326	6,489,018
D. C.	1,246,146	1,446,378	285,317	703,415	1,038,103
Va.	5,055,396	4,761,234	526,473	2,894,125	4,822,611
N. C.	789,605	745,162	117,129	322,994	403,949
S. C.	9,743,782	10,912,564	1,664,445	3,247,341	5,290,614
Ga.	82,764	3,744,845	24,626	1,082,108	2,238,686
Ohio	62,318	28,889	13,115	3,850	10,583

²⁵ *Ibid.*, p. 53.

States and Territories	1806	1807	1808	1809	1810
Mich.	221,260	311,947	50,848	136,114	3,615
Miss.		701		305	2,958
Orleans	3,887,323	4,320,555	1,261,101	541,926	1,890,948
Total	\$101,536,963	\$108,343,150	\$22,430,960	\$52,203,233	\$66,757,970

A comparison of the figures in the columns for 1807 and 1808 tends to strengthen the convictions previously recorded. In 1808, the exports of New Hampshire were about one-fifth of what they had been in the previous year, those of Vermont one-half, those of Massachusetts one-fourth, those of Rhode Island one-seventh, and those of Connecticut one-fourth. Passing on to the Middle States and again making the rough comparisons, we find that in 1808 the exports of New York fell to one-fifth of the amount recorded in 1807, those of New Jersey to one-half, of Pennsylvania to one-fourth, and of Delaware to one-half. In the states then considered as southern, Maryland's exports dropped to one-fifth of the amount in 1807, District of Columbia to one-fifth, Virginia to one-ninth, North Carolina to one-sixth, South Carolina to one-sixth, and Georgia to one-one hundred-and-fifty-second. Making a comparison in a different and a more accurate way, New England's exports fell from \$24,278,723 to \$6,017,878 or 75 per cent; the exports from the Middle States fell from \$43,493,168 to \$9,748,922 or 78 per cent; the exports from the Southern States fell from \$35,909,167 to \$5,339,096 or 85 per cent. For the country as a whole they fell 79 per cent. These comparisons thus show that in the export of all products, foreign or domestic, the New England section showed the smallest decline whereas the southern section showed the greatest decrease. It must, however, be borne in mind, as will be pointed out again later, that New England ships did a lot of carrying for the southern states.

Exports of Domestic Growth, Produce, and Manufacture²⁶

²⁶ *Ibid.*, p. 55.

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States and Territories	1806	1807	1808	1809	1810
N. H.	\$ 411,379	\$ 365,950	\$ 122,294	\$ 201,063	\$ 225,623
Vt.	91,732	148,469	83,103	125,881	406,138
Mass.	6,621,696	6,185,748	1,508,632	6,022,729	5,761,771
R. I.	949,336	741,988	139,684	658,397	874,870
Conn.	1,522,750	1,519,083	397,781	655,258	762,785
N. Y.	8,053,076	9,957,416	2,362,438	8,348,764	10,928,573
N. J.	26,504	36,063	12,511	269,104	392,798
Penn.	3,765,313	4,809,616	1,066,527	4,238,358	4,751,634
Del.	125,787	77,695	38,052	96,495	79,988
Md.	3,661,131	4,016,699	764,992	2,570,957	3,275,904
D. C.	1,091,760	1,363,352	281,936	681,650	984,463
Va.	4,626,687	4,393,521	508,124	2,786,161	4,632,829
N. C.	786,029	740,933	117,129	322,834	401,465
S. C.	6,797,064	7,129,365	1,404,043	2,861,369	4,881,840
Ga.	*82,764	3,710,776	24,626	1,082,108	2,234,912
Ohio	62,318	28,889	13,115	3,850	10,583
Mich.	221,260	311,947	50,848	136,114	3,571
Miss.		701		305	2,958
Orleans	2,357,141	3,161,381	537,711	344,305	1,753,970

Total \$41,253,727 \$48,699,592 \$ 9,433,546 \$31,405,702 \$42,366,675

Exports of Foreign Growth, Produce, and Manufacture²⁷

States and Territories	1806	1807	1808	1809	1810
N. H.	\$ 383,884	\$ 314,072	\$ 2,765	\$ 85,532	\$ 9,027
Vt.	102,043	55,816	25,669	49,901	26,493
Mass.	14,577,547	13,926,377	3,619,690	6,119,564	7,251,277
R. I.	1,142,499	915,576	102,350	626,135	456,706
Conn.	193,078	105,644	15,910	11,255	5,858
N. Y.	13,709,769	16,400,547	3,243,620	4,232,798	6,313,757
N. J.	7,363	5,123	8,288	50,071	37,469
Penn.	13,809,389	12,055,128	2,946,803	4,810,883	6,241,764
Del.	374,319	151,580	70,683	41,541	40,354
Md.	10,919,774	10,282,285	1,956,114	4,056,369	3,213,114
D. C.	154,386	83,026	3,381	21,765	53,640
Va.	428,709	367,713	18,349	107,964	189,782
N. C.	3,576	4,229		160	2,484
S. C.	2,946,718	3,783,199	260,402	385,972	408,774
Ga.		34,069			3,774
Mich.					44
Orleans	1,530,182	1,159,174	723,390	197,621	136,978
Total	\$60,283,236	\$59,643,558	\$12,997,414	\$20,797,531	\$24,391,295

* Does not include Savannah's exports which were worth about \$2,250,000.

²⁷ *Ibid.*, pp. 57, 58

An examination of the two preceding tables shows some interesting things with regard to the effects of the embargo on trade. Domestic exports sent out from New Hampshire fell to about one-third of the value in 1807, those from Vermont to three-fifths, from Massachusetts to one-fourth, from Rhode Island to one-fifth, and from Connecticut to one-fourth. The decline in the Middle States was to about one-fourth in New York, one-third in New Jersey, one-fifth in Pennsylvania, and one-half in Delaware. In the Southern States the decrease roughly speaking was to one-fifth in Maryland, to one-sixth in the District of Columbia, to one-ninth in Virginia, to one-seventh in North Carolina, to one-fifth in South Carolina, and to one-one hundred-and-fifty-first in Georgia. Grouping by sections and estimating more accurately, we find that the New England States fell from \$8,961,238 in 1807 to \$2,251,494 in 1808, or 75 per cent; the Middle States fell from \$14,880,790 to \$3,479,528, or 77 per cent; the Southern States declined from \$21,354,646 to \$3,100,850 or 85 per cent. Domestic exports as a whole decreased 79 per cent.

The exports of foreign products fell to one-one-hundred-and-fourteenth of their value in New Hampshire, to one-half their value in Vermont, to one-fourth their value in Massachusetts, to one-ninth their value in Rhode Island, and to one-seventh of their value in Connecticut. In the Middle States they fell to one-fifth their value in New York, increased by more than half in New Jersey, fell to one-fourth in Pennsylvania, and to less than one-half in Delaware. In the Southern Section they fell to one-fifth their former value in Maryland, to one-twenty-fifth in the District of Columbia, to one-twentieth in Virginia, to nothing in North Carolina, to one-fifteenth in South Carolina, and to nothing in Georgia. Again, speaking more accurately and by sections, the exports of foreign produce fell from \$15,317,485 to \$3,766,384 or 75 percent in New England, from \$28,612,378 to \$6,269,394, or 80 per cent, in the Middle States, and from \$14,554,521 to \$2,238,246, or 85 per cent, in the Southern States. Re-exports decreased as a whole, 78 per cent.

The percentages varied little, considered by groups, in the three tables, but there were wide variations in the case of

individual states. Some of these will be noticed. Vermont lost about two-thirds of her export trade in domestic products, but practically all of her export trade in foreign products. Rhode Island and Connecticut lost a little larger percentage of their foreign exports than of their domestic. New Jersey lost about two-thirds of her domestic exports, but increased her exports of foreign products by more than half, though both were inconsiderable. Maryland suffered a slightly greater loss in the export of her domestic products than of foreign. The District of Columbia and all southern states showed far greater per cent decreases in the export of foreign produce than in the export of domestic produce. The southern merchants engaged in the re-exporting trade consequently lost more, considering their capital, than did the others. Those in the Middle States suffered next, while those in the New England States suffered least.

In comparing the different sections of the country in the domestic export trade, it seems superfluous to point out that all the domestic products sent from a certain state were not necessarily produced there. It seems certain to the writer, however, that the smallest percentage of domestic products produced within the state came from New England, the next smallest from the Middle States, and the largest percentage from the Southern; hence the following figures will not be unfair to the North. In the Middle States the value of domestic exports was nearly twice as great as in the New England States; in the Southern States it was nearly three times as great as in New England. The loss, as already pointed out, was 75 per cent in the Middle States, and 85 per cent in the Southern States. In New England the largest losses were sustained by: Rhode Island—81 per cent; Massachusetts—76 per cent; and Connecticut—74 per cent. In the Middle States the heaviest sufferers were: Pennsylvania—78 per cent and New York—76 per cent. The exports of New Jersey and Delaware were so small that they scarcely affected the total. In order to make the contrast clearer, the decrease percentage for all the Southern States will be given in order: Georgia—99; Virginia—88; North Carolina—84; Maryland—81; South Carolina—80; and District of Columbia—79. It is thus apparent that every

southern state suffered a greater decrease in exports of domestic produce than any state north of the Mason and Dixon line. Since most of the southern exports were agricultural, the conclusion seems obvious that southern farmers suffered more than those in the Middle States who in turn suffered more than those in the New England States.

On the other hand, it should be kept in mind that even though southern merchants engaged in the export business and southern farmers suffered more from the embargo than did the corresponding classes in the North, it was largely because the ships engaged in the carrying trade were owned in other parts of the country and that vexatious restrictions were imposed on the coastwise trade by the embargo. Ships engaged in smuggling could get cargoes at home. The following tables show the registered tonnage employed in the various states, and territories, 1806-1810:

States and Territories	Foreign Trade ²⁸									
	1806		1807		1808		1809		1810	
	Tons	95	Tons	95	Tons	95	Tons	95	Tons	95
N. H.	20,606	29	22,367	64	20,101	51	23,010	47	24,534	
Mass.	306,075	87	310,309	69	266,519	91	324,690	8	352,806	82
Vt.	301	27	301	27	301	27	476	11	494	51
R. I.	28,617	19	28,492	24	23,282	93	28,403	55	28,574	93
Conn.	26,026	37	27,071	11	22,297	87	21,306	46	22,671	35
N. Y.	141,186	14	149,061	61	146,682	61	169,535	39	188,556	73
N. J.	891	84	952	13	525	29	15,596	67	17,338	51
Penn.	86,728	35	93,993	16	94,658	69	106,621	90	109,628	57
Del.	1,073	29	1,105		755	49	1,461	83	1,242	88
Md.	71,819	92	79,782	49	74,699	43	88,188	55	90,045	16
D. C.	7,797	93	8,643	87	6,556	49	7,482	41	9,416	26
Va.	34,015	29	33,503	5	29,485	28	36,699	29	45,339	78
N. C.	22,180	70	21,894	58	16,623	24	23,161	64	26,472	47
S. C.	40,158	61	45,222	85	41,628	11	42,675	74	43,354	77
Ga.	10,909	89	12,827	18	11,305	46	10,942	83	12,405	41
Ohio	160									
Orleans	9,735	33	12,778	68	13,629	56	9,805	86	11,386	45
Total	808,284	68	848,306	85	769,053	54	910,059	23	984,269	5

The decrease in the registered tonnage, 1807, 1808, was only 79,253, 31/95. All states showed some decrease except Vermont, Pennsylvania, and Orleans Territory. Over half of this decrease was in Massachusetts, which owned slightly more than one-third of the registered tonnage. If then,

²⁸ *Ibid.*, pp. 436, 437.

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no compensating gain occurred elsewhere, Massachusetts suffered heavily. The following table, however, will bear close examination:

Enrolled Tonnage employed in the Coasting Trade 1806-1810²⁹

States and Territories	1806		1807		1808		1809		1810	
	Tons	95	Tons	95	Tons	95	Tons	95	Tons	95
N. H.	1,560	16	3,602	41	3,866	56	3,066	61	2,863	87
Mass.	89,892	16	89,982	78	127,893	79	113,325	63	107,260	72
R. I.	5,766	47	6,279	53	8,981	54	8,265	83	6,899	11
Conn.	15,236	26	15,884	93	21,947	27	19,477	70	19,346	83
N. Y.	70,225	68	72,567	43	77,522	10	78,252	61	83,536	60
N. J.	19,654	37	20,535	85	22,539	65	23,268	84	23,927	60
Penn.	9,252	66	10,355	29	13,455	6	13,497	49	14,255	76
Del.	5,587	72	5,878	2	6,292	56	6,371	94	6,261	74
Md.	38,879	88	40,400	18	46,916	38	47,715	69	46,247	92
D. C.	3,968	31	4,073	58	4,772	70	5,125	32	4,783	1
Va.	28,244	45	27,360	80	29,378	62	29,052	39	31,284	35
N. C.	9,091	26	9,602	2	11,377	44	10,640	94	10,562	56
S. C.	8,972	29	7,773	18	8,858	71	8,043	58	9,449	54
Ga.	2,915	49	3,351	38	3,178	44	3,337	78	3,107	37
Orleans	729	54	542	25	703	26	2,057	71	1,326	69
Total	309,977	5	318,189	93	387,684	43	371,500	56	371,114	12

The reader will note that the gain in the coasting trade tonnage was 69,494 45/95. Every division represented in the above trade save Georgia showed an increase. The obvious conclusion is that vessels formerly engaged in the foreign trade were transferred to the coasting trade. Over half of this gain was in Massachusetts. The loss in the foreign trade was 43,789 73/95; the gain in the coasting trade was 37,911 1/95. Moreover, the increase in tonnage of licensed vessels under twenty tons employed in the coasting trade should be noted. This was only 595 52/95 for Massachusetts, but it amounted to 2,296 89/95 for the country as a whole.³⁰ By simple arithmetical calculation we find then that Massachusetts' loss was 5,283 20/95, and the total loss for the United States in these two branches was 7,461 87/95. The effect of the embargo on actual tonnage was not striking. It is perfectly true, as Professor Channing points out, that no self-respecting shipowner would allow his vessel to rot at the wharves in a year or two. Moreover, many of these vessels did not tie up in American harbors. They stayed

²⁹ *Ibid.*, pp. 439, 440.

³⁰ *Ibid.*, p. 442.

abroad during the embargo, engaged in coasting trade, or in smuggling. The embargo, nevertheless, decidedly injured the commerce by diverting capital to manufactures, giving other nations a chance to win and hold our markets, and by checking ship construction.

The following figures show the tonnage built in the United States, 1806-1810: 1806, 126,093 29/95; 1807, 99,783 92/95; 1808, 31,755 34/95; 1809, 91,397 55/95; 1810, 127,575 86/95.³¹ The hard times of the embargo caused less than one-third of the tonnage to be built in 1808 which was constructed in 1807; the partial repeal of the embargo caused the tonnage built in 1809 to jump back almost to the amount constructed in 1807.

A mere recital of figures, however, will not give a picture of the ravaging effects of the embargo. Those effects, almost without exception, have been painted as disastrous by historians since then, and the writer of this monograph has collected numerous quotations from secondary writers who support this view, but as in the case of agriculture, limitation of space and the uselessness of quoting from late writers when contemporary material is at hand cause him to pass them by for the most part.

From the very beginning the merchants protested against the embargo. On December 31, 1807, George Cabot wrote to Pickering from Boston:

Already the evils of the embargo begin to be felt, and threats of violence are whispered. No man can doubt that all our commercial cities will experience that degree of suffering which must destroy order and subordination. Some thousands (including women and children) of persons in this town will be without subsistence in a few days because there is no employment for them. If the government cuts off all the business we are pursuing, they ought to provide a substitute without delay. The embargo brings greater *immediate* distress on us than war, though the latter would *finally* bring ruin. . . .³²

On January 20, Cabot again wrote to Pickering: "I can truly say I do not know a man of any party who openly vindicates

³¹ *Ibid.*, p. 430.

³² Lodge, H. C., *Life and Letters of George Cabot*, p. 374. This opposition, however, was not universal. Thus William Gray of Salem, Massachusetts, one of the greatest merchants of the period, upheld the measure. See Professor L. M. Sear's article, "Philadelphia and the Embargo," published in the *Quarterly Journal of Economics*, February, 1921.

it [the embargo], though there may be some apologists who would palliate and excuse it. In sixty or ninety days we shall be in a very unhappy state, if it continues."³³

On January 26, 1808, William Plumer wrote to Samuel R. Mitchell, a New York Congressman:

Our merchants complain of the embargo as a serious evil; it oppresses our seamen, many of whom are in want of bread, and our farmers feel its pressure in the reduced price of the produce of their lands. When Congress imposed it, they possessed, I presume, information which it was then improper to disclose, but which, if known, would have prevented prudent men from hazarding their ships on the ocean. When from any source, this danger shall be known to our merchants, will the embargo be continued? Or is it designed to operate against other nations? If the latter is the object, I fear, while we are chastising others with *whips*, we shall be scourging ourselves with *scorpions*.³⁴

On April 5, Cabot wrote again to Pickering: "Although our people now begin to suffer very much from the embargo, yet it appears that other feelings are stronger, and other passions govern them. . ."³⁵ On January 18, 1809, Cabot once more wrote: "Our government ought to raise the embargo, and leave commerce free; but this, they know would offend France, and therefore they refuse to do it."³⁶

Many ships were tied up in the harbors of the country. On April 1, 1808, there were 108 ships, 117 brigs and 71 schooners at New York. In ports to the south of New York there were 123 ships, 140 brigs, and 150 schooners; in ports east of New York there were 50 ships, 109 brigs, and 100 schooners. The total was thus 281 ships, 366 brigs, and 321 schooners. The number of men thrown out of the foreign trade was then computed at 8712, or nine for each boat.³⁷

On September 1, 1808, 29 Boston-owned ships, 31 brigs, and 11 schooners, exclusive of coasters were embargoed in that city. Of the total tonnage of 13,514, the Federalists owned 8,509, the Democrats 3,715, and 1,020 was doubtful. These vessels would have employed six hundred seamen and were estimated to be

³³ Lodge, H. C., *Life and Letters of George Cabot*, p. 376.

³⁴ Plumer, William, *Life of William Plumer*, pp. 364, 365.

³⁵ Lodge, H. C., *Life and Letters of George Cabot*, p. 391.

³⁶ *Ibid.*, p. 406.

³⁷ *Paulson's American Daily Advertiser*, April 12, 1808.

worth at least at half million dollars.³⁸ The following significant extract, which pictures roughly the conditions of practically all the seaports of the country, is taken from the *American Register*:

On the first day of January, 1809, there were lying in the ports and harbours here mentioned, the following large quantities of shipping; the principal part of which are totally dismantled, having been deprived of their usual channels of trade by the embargo:

Boston	Charleston	Salem	New Bedford
81 ships	13 ships	53 ships	57 ships
92 brigs	10 brigs	35 brigs	23 brigs
79 schooners	17 schooners	58 schooners	27 schooners
61 sloops sloops	19 sloops	sloops, and a gunboat
—	—	—	—
313	40	165	107
Total 625 ³⁹			

The same magazine declared that on February 21, 1809, there were in the port of Philadelphia and at the point 142 ships, 92 brigs, and 59 schooners, or a total of 293. In addition to these there were about fifteen or twenty coasters.⁴⁰

Newspapers naturally commented on the harmful effects of the embargo on our merchants. Bankruptcies were frequent. Flour at New York, Alexandria, Baltimore and other places fell to four and four and one-fourth dollars per barrel. Several failures took place. One failure in New York was said to be for \$804,000. American credit was damaged, though the embargo could not have been responsible for a Liverpool house protesting 40,000 sterling in one day.⁴¹

English papers charged the American government with allowing vessels to sail for England in order to save the American credit. The editor of the *National Intelligencer* denied the statement, but lamented the fact that embargo violations were so frequent as to give rise to the supposition.⁴²

A Utica item, dated April 12, declared:

³⁸ *Boston Gazette*, September 1, 1808.

³⁹ *American Register*, Vol. v, p. 217.

⁴⁰ *Ibid.*, p. 233.

⁴¹ *Boston Gazette*, January 4, 1808.

⁴² *National Intelligencer*, April 14, 1808.

We have just seen a list of failures of the merchants in the city of New York, which have taken place in consequence of the Embargo, amounting to *ninety-one* in number for the enormous sum of *six millions five hundred and five thousand dollars*. We also learn that the Albany shippers have returned, with their cargoes from New York, not being able to sell one cent's worth of their produce.⁴³

John Howe, the secret agent of the British government, addressed numerous letters to Sir George Prevost on commerce and the state of the country. On May 5, 1808, he wrote:

In proportion, however, to this appearance of wealth and prosperity, is the state of suffering they are at present reduced to. Before the Embargo, not a House or Store remained long unoccupied in this town. It is now computed that there are at least 500 Stores and Houses to let, as the late occupiers of them have been either obliged to go into the country, or to turn their attention to other pursuits, than those they were engaged in for support. Wharves where immense bustle were visible before are in a manner departed. Tradesmen particularly those whose employments depended on shipping, are suffering very severely. All descriptions of the country are more or less effected, and you scarcely meet a person who is not complaining; and yet they appear to endure it with a degree of philosophy that is really surprising in a country where the actions of men are under so little restraint.⁴⁴

Howe then declared that there was great suffering and numerous bankruptcies in New York, but only three or four small failures in Boston. British goods in Boston, however, were rising ten to twenty per cent. Portland, formerly Casco Bay, he said, had enjoyed an extensive lumber trade with Liverpool and an extensive fish and lumber trade with the West Indies. The city had gone to the extent of its credit and capital. The embargo had paralyzed its efforts and involved its merchants with few exceptions in bankruptcy. All the commercial towns of the state were injured by the embargo, but none so much as Portland. With regard to Marblehead, he declared that the extensive fishery was at a standstill and the vessels usually employed in it were lying useless in port. Apparently, the effect of the embargo was not then so marked on Salem.⁴⁵

On August 5, Howe wrote from New York concerning a southern trip and the effects of the embargo. Baltimore and Alexan-

⁴³ *New England Palladium*, April 26, 1808.

⁴⁴ "Secret Reports of John Howe," *American Historical Review*, Vol. XVII, p. 79.

⁴⁵ *Ibid.*, p. 82.

dria were the principal cities described. He declared that the latter was suffering from the prosperity of the former, and particularly from the embargo. Mr. Patten, the British consul, told him, and he found it true by observation, that there were hardly twenty seamen in the place, and if the embargo were removed, it would take quite a while to collect seamen to man the vessels lying idle by the wharves.⁴⁶

The classic example given of the effects of the embargo is taken from the writings of John Lambert. While describing his visit to New York in November, 1807, he referred to cotton, wool, and merchandise; barrels of potash, rice, flour, and salt provisions; hogsheads of sugar, chests of tea, puncheons of rum, and pipes of wine, boxes, cases, packs and packages of all sizes and kinds scattered on the wharfs, landing places, or decks of shipping. He mentioned also the busy carters, merchants, auctioneers, and coffee-houses.

The coffee-house slip, [he said] and the corners of Wall and Pearl streets were jammed up with carts, drays and wheelbarrows; horses and men were huddled promiscuously together leaving little or no room for passengers to pass. Such was the appearances of this part of the town when I arrived. Everything was in motion; all was life, bustle, and activity. The people were scampering in all directions to trade with each other, and to ship off their purchases for the European, Asian, African, and West Indian markets. Every thought, word, look, and action of the multitude seemed to be absorbed by commerce; the welkin rang with its busy hum, and all were eager in the pursuit of its riches.⁴⁷

Lambert returned to New York in April, after the embargo had been in operation about four months. He found the wharves deserted, the shipping dismantled and laid up, boxes, bales, casks, barrels and packages absent from the wharves, few counting houses open, and a few solitary merchants, clerks, porters, and laborers walking about with their hands in their pockets. Instead of sixty or a hundred carts, he found hardly a dozen and they were unemployed. The coffee-house was almost empty, the streets by the waterside were almost deserted, and grass had begun to grow on the wharves.

In short, [he concluded], the scene was so gloom and forlorn, that had it been the month of September instead of April, I should verily have

⁴⁶ *Ibid.*, pp. 96-98.

⁴⁷ Lambert, John, *Travels*, Vol. II, pp. 63, 64.

thought that a malignant fever was raging in the place; so desolating were the effects of the embargo, which in the short space of five months had deprived the first commercial city in the States of all its life, bustle, and activity; caused above one hundred and twenty bankruptcies; and completely annihilated its foreign commerce.⁴⁸

Lambert declared that he found the charge commonly asserted that Jefferson's object in laying an embargo on shipping was to annihilate the commerce of the northern states and reduce the merchants and traders to farmers. With regard to this, he said:

How this charge can be reconciled with Mr. Jefferson's known sentiments and actions during his administration I cannot easily perceive. It is well known that the flourishing state of the treasury for the eight years which he was in power was occasioned *solely* by commerce. Why, therefore, he or his successor Mr. Madison (who follows in his steps) should wish to annihilate such an easy, agreeable, and popular source of revenue, is surely unaccountable; but that the nation should quietly submit to such proceeding would indeed be passing strange. The embargo, while it lasts, certainly annihilates every branch of foreign commerce carried on by the State; but it cannot be argued from thence that Mr. Jefferson or Mr. Madison aims at the total destruction of commerce. It has no doubt been the source of much altercation with the belligerents, but the United States still continued to prosper; and though the merchants and the government grumbled, and vociferated their complaints against the English and French outrages, still they filled their pockets and their treasury.⁴⁹

In a further discussion of this subject, Lambert declared that if Jefferson's sole object had been the destruction of commerce, the embargo would not have been approved by so many merchants. Though they might find pleasure in revenging themselves on Great Britain, whose manufactures and commerce were "materially affected," he argued, it would be supposing more than Roman virtue "to believe them capable of sacrificing their best interests merely to annoy their political opponents, their own countrymen too!" He said that every merchant now supporting the administration measures of Jefferson and Madison, if asked concerning his willingness to give up commerce forever "to further Mr. Jefferson's *plans* for making the United States a *Chinese nation*," would reply in the negative. "Mr. Jefferson's great object," he concluded, "is to encourage the

⁴⁸ *Ibid.*, p. 65.

⁴⁹ *Ibid.*, p. 365.

agricultural interests of his country in preference to commerce and manufacture. . .⁵⁰

David Ramsay, a friend of the administration, attributed the losses of commerce to the belligerent powers. He said:

The citizens of Carolina, conscious that they had given no just cause of offense to either, humbly hoped to be permitted to live in peace. But this boon was too great to be granted. Each of the nations at war endeavored to goad them into a quarrel with its respective adversary; and to compel them to do so, each hostile nation interdicted them and all Americans from trading with the other, and all its dependencies; thereby shutting them out from nine-tenths of the ports with which, by the law of nations, and of nature's God, they had a right to trade.⁵¹

With the enactment of the embargo act, he continued:

Coasting trade is all that throughout the year 1808 remained of an extensive commerce, which, though not two centuries old, had grown with such unexampled rapidity as to be second in the world. That year, which will be long remembered for the privations and sufferings resulting from a general embargo, was an eventful one, to the inhabitants of South Carolina. Their foreign trade was in a moment, and with little or no previous notice completely arrested.⁵²

John Bristed, also a contemporary, pictured graphically the effects of the embargo policy in his book, published at London in 1818:

These 'restrictive energies' (as they were vauntingly called by Mr. Jefferson) not only annihilated the foreign commerce, but also very materially crippled the coasting trade of the United States. The distress, misery, and ruin, produced by this great agricultural scheme, not merely to the merchants, but to the farmers also (whose interests, it professed to subserve, but whose property it destroyed by taking away the markets for their produce), was so general, so deep, so intolerable, as to prove the entire fallacy of the theory. . .⁵³

As previously indicated, numerous references might easily be made to secondary writers, but no writer whose book was published later than 1868 will be referred to here. There are various reasons for this. The early writers often knew the effects of the embargo from actual observation. All of them, it is to be

⁵⁰ *Ibid.*, pp. 366-367.

⁵¹ *History of South Carolina*, Vol. II, p. 135.

⁵² *Ibid.*, p. 135.

⁵³ *America and Her Resources*, p. 37. See also pp. 42, 43.

presumed, talked with people who lived in embargo times. Later writers obtained their material from the earlier writers, and their conclusions are generally the same.

E. Everett, writing in the *North American Review*, in 1826, declared that the embargo operated so severely on the commercial and agricultural interests and was so ineffectual as an instrument of coercion on foreign powers that it was repealed by law, on March 1, 1809, with regard to all countries save England and France.⁵⁴

Richard Hildreth, in referring to the passage of the embargo and its effects, spoke of the encouragement of manufactures, the sowing and reaping of the farmers in hopes of better times, the storing of cotton and tobacco by the planters, the slight curtailment of imported luxuries through inability to buy, and then declared that a different state of things prevailed in New England, where there was much suffering and a prevalent belief that the administration acted as tools of France. With some feeling he declared:

The intrepid seamen, the adventurous and sagacious merchants, whose enterprise, in the course of fifteen years, had carried the flag of the United States to every corner of the globe; the men, who, notwithstanding constant belligerent interruptions and depredations, had raised their country to be the second commercial nation in the world, with a prospect of soon becoming the first—as they paced with melancholy steps the late busy streets in which grass was beginning to grow, and saw their good ships made to traverse the ocean, gloomily rotting at the wharves, cursed with vehement and bitter emphasis the stubborn folly of a pusillanimous government, which refused to the merchant and the sailor even the boon of taking their own risks and defending themselves; at the same time pompously pretending that this timid if not treacherous abandonment of the ocean was a dignified maintenance of maritime rights.⁵⁵

T. C. Amory, who based his statements perhaps too exclusively on the writings of James Sullivan, declared:

Not many months elapsed after the passage of the embargo before New England began to experience all its deplorable consequences. . . Commercial adventure, carefully planned and rich in promise, had been stayed in the midst of preparation. The ships, which had whitened the ocean, rotted at the wharves. Valuable merchandise perishable by nature, decayed in the store-house. Merchants, who had grown old in successful enterprise,

⁵⁴ *North American Review*, Vol. 23, p. 391.

⁵⁵ *History of the United States*, Vol. VI, pp. 111, 112.

reduced to the verge of bankruptcy, unexpectedly found their families threatened with poverty, and their names with a discredit which commercial honor dreaded more than impoverishment. Before the embargo was raised, four-fifths of our commercial classes, according to tradition, became insolvent; and many of them, no bankrupt law existing, were unable to extricate themselves from their embarrassments, and passed the rest of their days in want and humiliation.

Those who relied upon the prosperity of trade for daily toil and subsistence were thrown out of employment; and charity, deprived of its ordinary resources, furnished inadequate relief to the numerous applicants. Luxuries from abroad, which from habit were indispensable to the aged and feeble, rose rapidly above the straitened means on which they depended. Real estate rapidly depreciated, grass grew amid the pavements of populous seaports, and the inhabitants, too disconsolate to be amused, passed their idle days in profitless regrets, or in angry vituperation at the originators of this wide-spread calamity.⁵⁶

E. H. Derby, a writer in the *Atlantic Monthly* for 1861, also painted gloomy scenes of the effects of the embargo.⁵⁶ H. A. Garland described the effect of the embargo in this language:

An embargo is the most heroic remedy that can be applied to state diseases. It must soon run its course, and kill or cure in a short time. It is like one holding his breath to rush through flame or mephitic gas: the suspension may be endured for a short time, but the lungs at length must be inflated, even at the hazard of suffocation. Commerce is the breath that fills the lungs of a nation, and a total suspension of it is like taking away vital air from the human system; convulsions or death must soon follow. By the embargo, the farmer, the merchant, the mechanic, the capitalist, the ship owner, the sailor, and the day-laborer, found themselves suddenly arrested in their daily business. Crops were left to rot in the ware houses; ships in the docks; capital was compelled to seek new channels for investment, while labor was driven to every shift to keep from starvation.⁵⁸

Edmund Quincy, son of Josiah Quincy, one of the characters in embargo times, is the only other writer who will be quoted. Naturally the views of the son were strongly colored by the words of his father, which have been frequently quoted in earlier chapters. Edmund Quincy wrote that the embargo

was the nightmare of the New England States, which chilled the life blood of their industry, and checked its vital current with hopeless torpor.

⁵⁶ Amory, T. C., *Life of James Sullivan with Selections from his Writings*, Vol. II, pp. 292, 293.

⁵⁷ *Atlantic Monthly*, Vol. VII, p. 726.

⁵⁸ Garland, H. A., *The Life of John Randolph of Roanoke*, p. 267.

It pressed upon all classes, paralyzing at once the capital of the rich and the day labor of the poor. Ships rotted at the wharves; handicrafts and industries dependent upon commerce perished with it; agriculture felt the general distress in the diminished demand for its productions; all trades and occupations suffered by sympathy with the destruction of the chief source of wealth and prosperity. The shadow of the Embargo fell upon every household, and darkened every fireside.⁵⁹

The oppressive effects of the Embargo, [Quincy later added with more warmth, perhaps, than veracity,] were not confined to the Northern States, as its Southern supporters had supposed they would be. It recoiled on the grain raising and planting States so as to make itself severely felt by them. This was particularly the case with the Southern Atlantic States,—the cotton growing, rice planting, and tobacco-raising districts, which largely depended for their gains on an unrestricted trade.⁶⁰

It is not the purpose of the writer to estimate the money cost of the embargo, for that can never be definitely known. A few conflicting citations should make that clear. After six months the loss was computed by the *Carlisle Herald* and the *New England Palladium* at forty-eight million dollars.⁶¹ J. A. Bayard of Delaware declared in the Senate on February 14, 1809, that the national treasury had lost at least fifteen million dollars and the country not less than forty as the result of the embargo.⁶² Some other embargo opponents, as Livermore of Massachusetts, speaking before a year of restriction had passed, estimated the annual loss as high as a hundred or a hundred and fifty million dollars.⁶³ The lower estimates quoted are probably nearer the truth. The cost of war was also very high. Both war and embargo costs ran far up into the millions, but neither can be accurately determined. When war did come, the same effects were apparent—stimulation to manufacturers, hindrance to agriculture, and ruin of commerce. It may be noted, however, that in every year of the War of 1812 save one (1814), the value of the exports from the United States was greater than in 1808. In 1814 they sank to \$6,927,441, or about a third of the \$22,430,960 in 1808.⁶⁴ Opponents of the embargo main-

⁵⁹ *Life of Josiah Quincy of Mass.* by his son Edmund Quincy, p. 133.

⁶⁰ *Ibid.*, p. 140.

⁶¹ *New England Palladium*, July 5, 1808.

⁶² *Annals of Congress*, Vol. 19, p. 404.

⁶³ *Ibid.*, Vol. 18, pp. 1850-1852.

⁶⁴ Pitkin, Timothy, *Statistical View*, pp. 36, 37.

tained, in many cases, that the measure was more costly than war would have been; friends of the embargo generally denied the statement. Even if the matter were susceptible of proof, questions might be raised with regard to the cost and chances of success of a war in 1808 as compared with 1812. The writer accordingly left out idle speculation on relative costs and tried in the main to determine how manufactures, agriculture, and commerce were affected.

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BY

SOREN J. M. P. FOGDALL, Ph. D.

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EDITOR'S INTRODUCTION

Dr. Fogdall sets forth in this volume the relations of the United States with one of the smaller countries of northern Europe. His account makes it amply evident that these relations have, at times, been of more than ordinary importance. To Americans of to-day it is a matter of peculiar interest that the waterway connecting the Baltic Sea with the Atlantic Ocean was converted into a free international highway largely upon the initiative of the United States. It is also a matter of gratitude that during the Civil War, when certain more powerful nations were unfriendly to the United States government, Denmark was found in the ranks of our friends. Finally, the transfer of the Virgin Islands to the United States in our generation is an earnest of the future harmonious relations between the two nations.

ARTHUR M. SCHLESINGER.

AUTHOR'S PREFACE

This work was originally intended to cover the diplomatic relations between the United States and Denmark from the Revolutionary War to the end of the nineteenth century. Because of the recent purchase of the Danish West Indies, a short chapter has been added in which a brief survey has been made of the leading events that have taken place during the last twenty years. An attempt has been made to arrange the chapters of this volume in chronological order, but it has been found necessary at times to allow them to overlap.

In preparing this volume the author wished to use the files of the Department of State at Washington, D. C., but was unable to gain access to them. Having asked for permission the following reply was received: "The Department regrets to say that it has discouraged application to do research work of this character as it has not the facilities or space to properly supervise and examine the work, and that therefore it is reluctantly compelled to decline your request at this time." It has thus been necessary to rely on the material found in the various libraries and archives mentioned below.

In the city of Des Moines, Iowa, the author has worked in the Des Moines University Library, the Iowa State Law Library, and the Library of the Historical Department of Iowa. Most of the material in foreign languages has been obtained in the Library of Congress at Washington, D. C. The libraries of the University of Iowa and of the State Historical Society of Iowa, both located at Iowa City, have been of much value in verifying references.

During the summer of 1921 it was the author's privilege to spend four months in Europe. Some of this time was spent in Copenhagen where access was obtained to the Royal Library, the Archives of Foreign Affairs, and the Archives of the Kingdom (*Rigsarkivet*). Some of the material

in these archives is not yet released for general use, but three large packages of original dispatches were examined. These covered the period from 1783 to 1850. It must be said, however, that the material so far released by the Danish government is practically the same as that which is already published by the government of the United States.

The author is indebted to Mr. Herbert Putnam, Librarian of Congress, and his assistants for the personal interest shown and the valuable privileges extended to him while in Washington during the winter 1920-21. Thanks are also due to Kristian Erslev and his assistants at Copenhagen. Similar appreciation is extended to Mr. Arthur J. Small and Miss Mary Rosemond for valuable assistance in the Iowa State Law Library. Special thanks are due to Dr. Benjamin F. Shambaugh and Dr. Ruth A. Gallaher for privileges enjoyed in the library of the State Historical Society of Iowa.

The author wishes to express his sincere appreciation to Professor Gilbert G. Benjamin, under whose guidance this work has been done, and to Professor A. M. Schlesinger, editor of the *Studies in the Social Sciences*. Their suggestions and criticisms have been very valuable.

CHAPTER I

EARLY RELATIONS BETWEEN THE UNITED STATES AND DENMARK, 1776-1800

1. *The Attitude of Denmark toward the American Revolution.*

One of the early problems that confronted the American patriots in connection with the Revolution was that of establishing commercial and political relations with foreign nations. This was necessary in order to fight England successfully and also to establish the credit of the infant state. Consequently Silas Deane, a business man from Connecticut and a delegate from that state to the First and Second Continental Congresses, was sent to France in February, 1776, as government agent, to borrow money and secure supplies. It is in a letter from him to the Committee of Secret Correspondence, dated at Paris, August 18, 1776, that Denmark is mentioned for the first time in connection with our international relations. Explaining the political situation in Europe, Silas Deane showed that Spain, France, and Prussia were likely to go to war against England, and he added: "With respect to Russia, it is as closely allied to Prussia as to Great Britain, and may be expected to be master in the contest. Denmark and Sweden are a balance for each other and opposites."¹

It will be remembered that ever since the days of Charles XII, Sweden had been hostile to Russia. Denmark on the other hand had generally been friendly to Russia. Silas Deane without doubt intended to convey the idea to America that Denmark standing with Russia against Great Britain would be a friend of the new nation.

That Denmark was considered as a nation that would at least not aid Great Britain in the struggle against her

¹ Francis Wharton, *Diplomatic Correspondence of the American Revolution*, Vol. II, p. 119.

colonies was also brought out in 1777 when Arthur Lee, one of our commissioners to France, wrote to the Committee on Foreign Affairs: "As to the reenforcement of troops which Great Britain will receive from other powers of Europe for the approaching campaign I can assure you, sir, that your nation has nothing to fear from Russia or Denmark." This he again affirmed in the year 1778.² The previous year Franklin and Deane had written to the Committee of Secret Correspondence urging that the American government try to get a free port or two in Denmark, for the sale of prizes as well as for commerce.³

That the Danish people were in sympathy with the American Revolution cannot be doubted. We shall see later, however, that the man who was at the head of foreign affairs in Denmark was decidedly hostile to the Revolution and the independence of the colonies. This was so in spite of the fact that he knew the people of the country were opposed to his views. His correspondence shows both his own stand on the subject as well as that of the people.⁴ The fact that Denmark took a leading part in the formation of the League of Armed Neutrality is additional proof of the same fact, since that organization was created as the result of hostility to Great Britain.⁵

In the hope of negotiating a treaty of commerce, Stephen Sayre visited Copenhagen. In regard to this visit the foreign minister of Denmark, Andreas Peter Bernstorff, wrote to his friend Ditlev Reventlow December 30, 1777: "We have here an agent of the American colonies, the famous Sayre, who has come from Berlin. He proposes a

² *Ibid.*, Vol. II, pp. 429, 612.

³ *Ibid.*, Vol. II, p. 288.

⁴ Bernstorff to Reventlow, October 26, 1776. "Le public d'ici est extrêmement porté pour les rebelles (de l'Amérique), non par connoissance de cause, mais parce que le manie de l'indépendance a réellement infecté tous les esprits, et que ce poison se répand imperceptiblement des ouvrages des philosophes jusques dans les écoles des villages." Aage Friis, *Bernstorffske Papirer*, Vol. II, p. 498.

⁵ J. B. Scott, *The Armed Neutrality of 1780 and 1800* is one of the best accounts of this alliance in English.

plan of commerce with America, very broad and very advantageous. With precaution I have not seen him, but I am sufficiently instructed concerning his proposal, and I see very clearly that the inhabitants of the colonies continue to hate the French at the bottom of their heart and that their relations with them are based on necessity and are rendered indispensable."⁶

What Bernstorff's answer was to Sayre's proposal we are unable to say, but we may infer that in his own peculiar, crafty way he informed the American agent that Denmark wanted to make a treaty and would continue negotiations. At any rate, Sayre apparently was not offended.⁷ He evidently got the impression that Denmark was not unfavorably inclined toward the colonists. Later John Adams wrote to Congress that Denmark was aiming to defend herself at sea against Great Britain.⁸ It would thus seem that Denmark was a friend of the new nation or that at any rate she was a friendly neutral.

2. *The Bergen Prizes.*

The event that tested Denmark's stand in regard to the independence of the American colonies came in the fall of 1779 and is known as the case of the Bergen prizes. The famous Scotchman John Paul Jones was plying the European waters with an American squadron, bent on harassing British commerce. One of his frigates, the *Alliance*, was commanded by Captain Peter Landais, a Frenchman who had made himself famous in America by transporting war supplies to the colonies under very dangerous circumstances. While stationed in the North Sea Captain Landais captured three English merchantmen, the *Betsy*, the *Union*, and the *Charming Polly*. Soon after, he met with bad weather, which caused considerable damage to his prizes. He therefore sought refuge and aid in what he supposed to be the friendly port of Bergen,

⁶ Aage Friis, *Bernstorffske Papirer*, Vol. III, pp. 12-13.

⁷ Stephen Sayre was an adventurer who went to Europe and attempted to force his service on the United States. Later he made a claim on Congress for money. His work was investigated and his claim refused. Wharton, *op. cit.* Vol. I, pp. 618-619; Vol. III, p. 107.

⁸ Wharton, *op. cit.*, Vol. III, p. 505.

Norway, a part of the Danish domain. The British consul in that port, learning of the presence of the prizes, reported it to the British minister at Copenhagen who insisted that Denmark should restore the vessels to the owners. The Danish foreign office complied with his demand and ordered them to be delivered to the British government on the ground that Denmark had not yet acknowledged the independence of the United States. The American seamen were left to shift for themselves without any means of subsistence.

M. de Chezaulx, the French consul at Bergen, made a report of the affair to Benjamin Franklin, who on December 22, 1779, wrote a long letter to Andreas Peter Bernstorff, Danish Premier and Minister of Foreign Affairs. In this letter Franklin showed that the law of nations recognized every people as a friendly nation unless it had committed a hostile act. As the United States had never committed a hostile act toward Denmark, she could by the rights of humanity claim that Denmark should treat her as a friend. In ancient times among barbarous nations, none was recognized as a friend except by treaty, but it would not be well for Denmark to revive that rule. He therefore requested that, if the three prizes had not left Bergen, they should be given back to the lawful captors. If on the other hand the vessels had left, it became his duty to claim the value of the prizes, which, as he understood, was about fifty thousand pounds. The amount, however, might be settled according to the best information obtainable.⁹

This affair excited much attention among our diplomats abroad. John Adams who was at Paris in the spring of 1780 proposed to John Jay that if Denmark should be unwilling to make restitution, we ought not to allow her products to be consumed in America.¹⁰ Congress passed a resolution approving the conduct of Franklin and pledged its

⁹ For full text of the letter see Wharton, *op. cit.*, Vol. III, pp. 433-435; Jared Sparks, *Diplomatic Correspondence of the American Revolution*, Vol. III, pp. 121-124. As the works of Wharton and Sparks largely contain the same material, no subsequent references will be made to Sparks unless the material is found there only.

¹⁰ Wharton, *op. cit.*, Vol. III, pp. 678-679.

support in asserting our rights as an independent and sovereign nation.¹¹ As Denmark had not answered yet, Franklin confidently hoped that she would make amends for her action, and he so informed Jones under whom Landais had acted.¹²

In the late spring of 1780 Count Bernstorff replied, that, had it not been for the fact that Franklin was such a sage, he would have believed that he was simply trying to place Denmark under a new embarrassment. Since, however, Franklin's integrity was universally recognized, he would divest himself of his public character and answer his letter, thereby proving that he was a friend of merit, truth and peace. Turning to the question of the prizes, he wished to state that the whole unfortunate affair had from the beginning caused him much pain. There was, however, situations where it was impossible to avoid displeasing either one party or the other. He appealed to Franklin's magnanimity asking him to consider the dilemma in which the Danish government was placed. The Danish representative in France, Baron de Blome, would be instructed in regard to the matter and it was hoped that the affair might be settled to the satisfaction of all concerned.¹³

It is clear from this letter that Bernstorff wanted Franklin to believe that it had been a disagreeable duty for him to deliver the prizes to England, but that he had done so to avoid unpleasantness with his next door neighbor. For the present we do not care to deal with the question of international law pertaining to the case, but it is desirable to set forth the motives for Bernstorff's action.

One of the memorable periods in Danish history is that which is known as the "Era of Struensee." In November 1766, King Christian VII of Denmark had married the sixteen year old princess, Caroline Mathilde, sister of George III of England. The King was mentally weak and inclined

¹¹ *Secret Journals of Congress*, Vol. II, p. 313.

¹² Wharton, *op. cit.*, Vol. III, p. 528.

¹³ Wharton, *op. cit.*, Vol. III, p. 528. The letter was signed R. Bernstorff. We know of no reason for this as his initials were A. P.

to immorality, drunkenness and brutality. He soon found the marriage tie to be an inconvenience, and to the chagrin of the young queen indulged in a ridiculous love affair with a woman of the street, known popularly as "Boot Kathrine," who became his special and much favored companion at social functions of the court. In her misery the queen formed an intimate friendship with Fru Plessen, a woman of parts who was opposed to the levity of the court. This displeased the king and his friends, who styled Fru Plessen the queen's "flea catcher" and had her dismissed from court. In 1768 the king made an extended trip through Europe. When he returned in 1769 two things were noticeable: first, his mind was rapidly failing; and second, he had fallen entirely under the influence of his private physician, Johan Frederik Struensee. Morally this man was of the king's type, but intellectually he was his master. With marvelous rapidity he advanced from one position to another until in 1770 he had concentrated all governmental powers in the hands of the king and made himself "*Maitre des requêtes*." In view of the mental condition of the king this meant that Struensee was *de facto* king in Denmark. With wonderful skill he now inaugurated a reform movement which compares favorably with the work of the most enlightened of the absolute monarchs. His activities created a large number of enemies among the conservatives, who sought diligently for an opportunity to ruin him. He then committed the inexcusable blunder of becoming too familiar with the queen, who welcomed his attentions as a variation from the monotony of her dreary life.

This situation afforded his enemies their opportunity. A *coup d'état* was carried out in the early morning of January 17, 1772. Struensee and his close friend, Enevold Brandt, were arrested, as was also Caroline Mathilde, who was taken to the famous castle Kronborg at Elsinore as a prisoner. The two men were condemned to death and executed with barbaric cruelty, while a court of thirty-five judges declared the king and queen divorced. It was the intention to immure her in the castle Aalborghus; but through Sir Robert M. Keith, the British minister to Denmark, George III, backed by public

opinion in England, secured her release. The queen, however, was forced to leave her two little children in the hands of strangers. She was taken to Celle in Hanover where she died brokenhearted at the age of twenty-two.¹⁴ A conspiracy was soon formed by a number of Danish malcontents, who had been exiled as a result of the *coup d'état* of January 17, 1772. This was backed by Sir N. W. Wraxall, an English nobleman. In spite of the fact that George III denied it, rumor would have it that the British monarch was back of it all. The evident object was the overthrow of the Danish government and vengeance for the treatment of Struensee and Caroline Mathilde.¹⁵ At any rate those in power in Denmark felt very uneasy. This was accentuated by the fact that George III became so angry, as a result of the unjust treatment of his sister, that he broke off all diplomatic relations, as soon as the queen left Denmark.

When France became a partner with the colonies in the war against Great Britain, England's need for friends changed the attitude of her king and government toward Denmark somewhat, and an envoy was again sent to Copenhagen in 1778.¹⁶ With this as a background we believe the Danish historian, Edvard Holm, is correct when he says of Bernstorff: "Without doubt it was pleasant for him under those conditions to have the opportunity to put himself on the side of England. Some English trading vessels were captured in the fall of 1779 by an American privateer near the Norwegian coast and taken into Bergen. As Denmark had not yet recognized American belligerency, Bernstorff

¹⁴ For a complete account of the Era of Struensee and Caroline Mathilde, "the Queen of Tears," see John Steenstrup, et al., *Danmarks Riges Historie*, Vol. V, pp. 281-380; "Caroline Mathilde, Queen of Denmark," *Blackwood's Magazine*, Vol. IX, pp. 142-147; "Danish Revolution under Struensee," *Edinburgh Review* (1826), Vol. XLIV, pp. 360-383; "Count Struensee and Queen Caroline Mathilde," *Westminster Review*, (1882), Vol. CXVIII, pp. 336-361; P. Uldall, *Efterladte Optegnelser*, passim.

¹⁵ Lascelles Wraxall, "The Hapless Queen of Denmark," *Eclectic Magazine*, (1864), Vol. LXIII, pp. 296-297. The author was the grandson of N. W. Wraxall and claimed he had access to his grandfather's papers.

¹⁶ Edward Holm, "Danmarks Neutralitetsforhandling 1778-1780," *Historisk Tidsskrift*, 3dje Række, Vol. V, pp. 4-8.

forced the privateer to give up the prizes."¹⁷ The political situation, supplies us with one of the deeper reasons for the action of the Danish foreign minister.

A second motive for Bernstorff's action in regard to the Bergen prizes was his unrelenting hatred of Sweden. Holm calls him "an untiring and irreconcilable enemy of Sweden."¹⁸ For nearly three hundred years the two countries had been enemies. Recently a secret treaty had been agreed upon between France and Sweden, by which France was to pay to Sweden one and one-half million livres a year for six years beginning January 1, 1779. Although this was supposed to be secret, Bernstorff had gotten wind of its existence.¹⁹ He knew that it was the custom of the great powers to play off Sweden and Denmark against each other in case of a European conflict. He was therefore hostile to the Franco-Swedish-American combine. Consequently he was unwilling in any way to offend England.

But probably after all the most potent reason why Bernstorff was pro-English was a personal one. He was against revolution and the liberal tendencies of his times. He had been one of the powerful opponents of the reforms of Struensee. He complained that the Danish people were in favor of the American rebels because they had been poisoned in the village schools by the philosophy of the day.²⁰ He also believed that the independence of the colonies would be a positive menace to Denmark. He feared that it would endanger the safety of the Danish possessions, cause a decrease in the Baltic commerce, which on account of the Sound Dues was a source of revenue to Denmark, create a nation which would become a commercial rival, make France too strong, and interfere with Danish trade in general.²¹

¹⁷ Edvard Holm, *Danmark-Norges Historie, 1766-1808*, pp. 310.

¹⁸ Edvard Holm, "Danmarks Neutralitetsforhandling 1778-1780," *Historisk Tidsskrift*, 3dje Række Vol. V, p. 78.

¹⁹ Bernt von Schinkel, *Minnen ur Sveriges Nyare Historia*, Vol. I, p. 283; Edvard Holm, *Danmark-Norges Historie, 1766-1808*, pp. 294-296. I have been unable in any of the great collections of treaties to find the text of this document. It is supposed to have been signed in December, 1778.

²⁰ Aage Friis, *Bernstorffske Papirer*, Vol. III, p. 498.

²¹ For an expression of this sentiment by Bernstorff, see Appendix A.

Within the Council of State, which had been reestablished after the *coup d'état* of 1772, there was a feeling, however, that Bernstorff was too favorably inclined toward England. The Prince Royal, a half brother of the demented king, who was a member of the Council of State, addressed a letter to his fellow members, which was clearly intended for Bernstorff, asking point blank why Denmark was pursuing a pro-English course. This letter was written March 9, 1780, a short time after the American prizes had been returned to England. "Can Denmark," he asked, "by becoming a special friend of England afford to become the object of the suspicion of Russia, of the dissatisfaction of Prussia, of the hate of Spain and France, and of the hostility of North America? Are we working for England or for Denmark, when at the present time we are seeking to induce Russia to become favorable to England?"²²

Bernstorff felt that the letter had been written for his benefit, and he was much annoyed by its contents, as it cast a reflection on his foreign policy. He addressed an answer to the Council, which, of course, was intended for the Prince Royal, in which he defended his foreign policy in general but especially his stand on the American situation. He stated that he felt it was his duty to set forth the reasons why he was opposed to American independence. Briefly they were as follows: (1) Denmark would be unable to protect her West Indies if they should be attacked by the Americans; (2) the new nation would demand cash in payment for products; (3) the United States would become a dangerous rival in the export of foodstuffs; and (4) the independence of the colonies would reduce the Sound Dues.²³ Bernstorff's anti-American feeling was also shown when in 1780 the city of Amsterdam made a treaty with the colonies. In a letter he stated that the states of Holland ought to punish the magistrates who had signed the treaty, or they ought to allow England to take revenge on the city.²⁴

²² Edvard Holm, "Danmarks Neutralitetsforhandling 1778-1780," *Historisk Tidsskrift*, 3dje Række, Vol. V, p. 73.

²³ For an extract from the letter, see Appendix B.

²⁴ Bernstorff to Reventlow, October 31, 1780. Aage Friis, *Bernstorffske Papirer*, Vol. III, p. 633.

It is now clear why Bernstorff acted as he did in regard to the Bergen prizes. It was unfortunate for the United States that, when the Danish people and, it would seem, even the Danish court were favorable to the colonies, such a strong statesman as Count Bernstorff was hostile to our independence. On the other hand, he was not, fortunately, at the head of a large powerful state.

Franklin had been informed that Baron de Blome, the Danish minister to France, would be given instructions in regard to the Bergen prize case. This gentleman stated that an old treaty existed between England and Denmark, according to which the Danish government was under obligation to deliver the prizes to the British. He did, however, not show the treaty to Franklin nor was Franklin able to discover such a treaty upon inquiry.²⁵ Denmark consequently claimed that being bound by a treaty to England she was under no obligation to the United States. After Franklin's letter to Bernstorff, the Danish government changed its attitude toward the American sailors at Bergen. By an order from court their expenses for the winter were paid, and food, clothing, and passage from Bergen to Dunkirk were given them at the king's expense.²⁶ When Congress was informed of all the facts in the case, it instructed Franklin to continue to press the claim on Denmark.²⁷ Although he did so several times, he was unable to obtain any satisfaction.²⁸

3. *Danish Counter-Claims.*

While Franklin was pressing these claims two incidents happened which gave Denmark an opportunity for counter-claims. On February 6, 1782, he was informed that on December 2, 1781, three American vessels had committed outrages on two English merchantmen in Danish waters near Flekerøe, Norway. The suggestion was made that it was an act of piracy. A demand was made for the punishment of the offenders and for indemnification for the vessels

²⁵ Wharton, *op. cit.*, Vol. III, p. 744.

²⁶ *Ibid.*, Vol. III, p. 744.

²⁷ *Secret Journals of Congress*, Vol. II, p. 313; *Ibid.*, Vol. III, p. 413.

²⁸ Sparks, *op. cit.*, Vol. III, p. 201.

and cargoes. Congress was informed of the complaint and that body through its president, Robert Livingston, informed Franklin that he should communicate to the Danish government that the miscreants had been punished by a higher hand as they had been lost at sea.²⁹

Shortly afterwards Franklin was informed in a dispatch from the Danish minister at Paris that the ship *Providentia* of Christiania, on her way from London to St. Thomas with a cargo of merchandise, had been captured by the American privateer *Henry* under Captain Thomas Benton, and had been taken to a port in New England under the pretense that the cargo was English. Denmark demanded restitution and payment of damages, and reminded the United States of their privileges in the Danish West Indies. A hope was expressed that friendship might continue to exist between the two nations in their dealings with each other.

It does not appear that any attention was paid to this representation until two years later. On May 16, 1784, Congress passed a resolution to the effect "that a copy of the application of the Danish minister to Dr. Franklin, and a paragraph of his letter to Congress, on the subject of the capture of the Danish ship *Providentia*, be sent to the supreme executive of Massachusetts, who is requested to order duplicates and authentic copies of the proceedings of their court of admiralty, respecting the said ship and cargo, to be sent to Congress."³⁰ It does not appear that the governor of Massachusetts ever reported on this case, nor have any court records been found regarding it. As no further correspondence concerning these counter-claims is on record, the cases seem to have been dropped.

A rather interesting suggestion was made by Robert Livingston in connection with these claims. The Danish government had not corresponded with Franklin directly but through the French minister, Vergennes. This was done by Bernstorff to avoid giving the appearance of recognizing the independence of the colonies. Livingston wrote to Franklin on

²⁹ Wharton, *op. cit.*, Vol. V, pp. 148, 202, 426.

³⁰ *Ibid.*, Vol. V. p. 321; *Journals of Congress*, Vol. IV, p. 350.

May 30, 1782, that if the powers which had complaints against us continued to consider us under England they should present their claims through that nation, but if they considered us as independent they should deal with us directly. Franklin was ordered to act accordingly.³¹ From the fact that we find no more communications received through the French foreign office the conclusion seems valid that Franklin made the European powers accept that view.

Upon inquiry at London it was found that the value of the three vessels we had lost amounted to 50,000 pounds sterling, hence Franklin presented a claim to Denmark for that amount.³² Bernstorff caused an offer of 10,000 pounds sterling to be made to the United States, not as a payment of the claim but as a means of closing the incident. He claimed that if the cases had been carried into the Danish courts the Americans would have lost all, as by Anglo-Danish treaty the ships belonged to England. Franklin, however, refused the offer.³³

As this case continued to come up for nearly seventy years, the discussion of international law, as it bears on this affair, is left till a later chapter. But it may be well to have it clear that Denmark gave two reasons for delivering the ships to England. The first was the argument that she had not recognized the independence of the United States, and the second, that her treaty with England forced her to return the prizes to the owners.

Although Franklin stated that he had been unable to discover the treaty, as a matter of fact it did exist, and is known as the Anglo-Danish treaty of 1660.³⁴ It would seem, however, that the two governments were not quite satisfied with the stipulations put forth in this document, for on July 4, 1780, a new treaty was made between Denmark and England explaining more definitely Article III of a treaty of 1670. The new treaty provided that the two powers would

³¹ Wharton, *op. cit.*, Vol. V, p. 462.

³² *Secret Journals of Congress*, Vol. III, p. 413; Wharton, *op. cit.*, Vol. VI, p. 743.

³³ *Ibid.*, Vol. VI, pp. 583-584.

³⁴ For the part of the treaty of interest to this work, see Appendix C.

not assist the enemies, the one of the other, by giving shelter to soldiers or vessels, and that they would punish those of their subjects as infractors of peace who should act contrarily.³⁵

4. *Early Treaty Negotiations.*

When it became evident that the American colonies would become independent, it was but natural that Denmark should try to establish treaty relations. In December, 1782, the Danish *chargé d'affaires* at Madrid inquired of William Carmichael, our representative in Spain, concerning the method Congress proposed for the interchange of ministers. It does not appear whether or not this was done at the request of the Danish government.

More definite steps were taken in February, 1783, when the new Danish Minister of Foreign Affairs, Baron Rosencrone, who had succeeded Count Bernstorff, instructed Baron de Walterstorff, who was leaving Copenhagen to take up his duties as Danish minister to France, to get in communication with Benjamin Franklin for the purpose of making a treaty with the United States. Rosencrone was not in agreement with the attitude of his predecessor, Bernstorff. He pointed out the advantages of such a treaty to both nations, and referred to the "glorious issue of this war to the United States of America." He suggested that the treaty already made between the United States and Holland be taken as a basis on which to work, and that Franklin be asked to suggest any changes or additions to the court of Denmark.³⁶

Walterstorff did not fail to carry out his instructions; and in April, 1783, Franklin submitted a draft of a treaty based, as suggested by Rosencrone, on our treaty with Holland. He expressed the desire of the United States to enter into treaty relations with Denmark, but did not forget to suggest that to smooth the way for the negotiations Denmark would do well to hasten to settle the affair of the Bergen prizes.³⁷

³⁵ *Danske Tractater, 1751-1800*, p. 379.

³⁶ Wharton, *op. cit.*, Vol. VI, pp. 186, 261.

³⁷ *Ibid.*, Vol. VI, pp. 372-373. For the text of the treaty with Holland, see W. M. Malloy, *Treaties, etc., 1779-1909*, p. 1233.

In answering Franklin's communication, Baron Rosencrone called attention to the fact that Denmark had already made an offer, which he hoped Congress would consider as a distinguished proof of the friendship of the court of the King. He also enclosed a counter-project of a treaty of amity and commerce. With the exception of a few points relating to the Revolutionary War, the making of passports, and the general arrangement of articles, this treaty was almost identical with the one made with Holland.³⁸

Franklin was satisfied with the document and in July, 1783, sent it to Congress with the hope that it would be ratified speedily.³⁹ Almost a year passed and nothing was done. On April 2, 1784, a resolution was passed to the effect that it would be advantageous to conclude a treaty with Denmark; and the following June Thomas Jefferson, Benjamin Franklin and John Adams were appointed to negotiate with the Danish government.⁴⁰ In September they agreed to invite Baron de Walterstorff to meet them at Passy to confer respecting the mode of procedure in the negotiations. In February, 1785, when de Walterstorff was about to leave Copenhagen, he asked the American ministers for such suggestion as in their judgment might be useful to hasten the making of a treaty. This request was made at the order of Count A. P. Bernstorff, who through a cabinet crisis had returned to the head of the ministry April 14, 1784.⁴¹ The joint commission made a draft similar to the one sent to Congress in 1783.⁴²

It is difficult to understand why Congress did not ratify the treaty of 1783 with Denmark. The records do not indicate that it was ever taken up for discussion. At that time Rosencrone, a man favorable to the United States, was at the head of Denmark's foreign office. Now Bernstorff, with whose sentiments we are familiar, was back in power. It is

³⁸ Wharton, *op. cit.*, Vol. pp. 519-527. This gives the text of the treaty.

³⁹ *Ibid.*, Vol. VI, pp. 585-586.

⁴⁰ *Ibid.*, Vol. VI, pp. 698, 721, 801, 805; *Journals of Congress*, Vol. III, p. 456; *Diplomatic Correspondence, 1783-1789* Vol. II, pp. 193, 197.

⁴¹ John Steenstrup, et al., *Danmarks Riges Historie*, Vol. V, p. 435.

⁴² *Diplomatic Correspondence, 1783-1789*, Vol. II, pp. 259-260, 265.

therefore not surprising that in May, 1786, Baron de Blome, who was sent to Paris because he was a friend of the re-instated chief, informed Jefferson that de Walterstorff would not return to France. He was furthermore given the power to state that the commerce of Denmark and the United States might well be conducted under the conditions then prevailing without resorting to a definite treaty. If on the contrary the United States were anxious to establish treaty relations, Denmark would be willing to enter into further negotiations.⁴³ There were apparently no further negotiations on the subject at this time, a circumstance which may be explained by the fact that Denmark became involved in war with Sweden, and the United States went through that era of uncertainty often called the "Critical Period." In the light of future events it is regrettable that a treaty was not made as it might have saved the United States from a good deal of trouble during the Napoleonic Wars.

5. *Negotiations through John Paul Jones.*

The fact that no treaty was made did not mean that we gave up our claim based on the Bergen prizes. In November, 1783, Congress had empowered John Paul Jones to go to Europe to solicit payment from Denmark under the direction of Franklin.⁴⁴ Jones went to France but was unable to accomplish anything and consequently left the affair in the care of his friend Dr. Bancroft in London, who was to work through the Danish minister at the court of St. James.⁴⁵ Dr. Bancroft, however, was no more successful than Franklin had been.

⁴³ *Ibid.*, Vol. III, p. 21; Vol. IV, p. 504. The original documents in Danish, German, English and French as well as the correspondence connected with them are found in Rigsarkivet at Copenhagen. Several of the letters are in cipher but are translated into Danish and French. The material is found under the following heading: "Akter vedrørende Forhandlingerne om en Handelstraktat mellem Danmark og Nordamerika, 1783-1786". *Dept. F. A. Nord-amerika I. a.* The dispatches are tied together and marked "Förste Pakke."

⁴⁴ *Ibid.*, Vol. VII, p. 291-293; *Journals of Congress*, Vol. III, pp. 311, 430, 796.

⁴⁵ *Diplomatic Correspondence, 1783-1789*, Vol. VII, p. 293.

Finally Jones decided to go to Denmark to present his claim in person. After some delay he obtained permission from Congress on the condition that the final settlement should not be made without the approbation of our minister to France. This was a fatal error, for it gave the slippery Count Bernstorff a chance to shift the negotiation. Armed with the authorization of Congress, copies of the documents relative to the Bergen prizes, a letter from an insurer of London stating that each of the prizes was worth 16,000 to 18,000 pounds sterling, a letter of introduction from Vergennes to De La Houze, the French minister at Copenhagen, and finally a personal letter of introduction from Thomas Jefferson to Count Andreas Peter Bernstorff, Jones arrived in Denmark in March, 1788.⁴⁶ He was very cordially received and was presented to the King of Denmark,—who did not speak when anyone was presented,—⁴⁷ as well as to the pleasant young crown prince.⁴⁸

Thus far Jones had been successful, but he had not come for these civilities. Days and weeks passed, but the minister avoided the subject of the Bergen prize claim. Finally Jones grew tired of waiting and sent the following note to Bernstorff: "Monsieur: Your silence on the subject of my mission from the United States to this court, leaves me in the most painful suspense; the more so as I have made your Excellency acquainted with the promise I am under, to proceed as soon as possible to St. Petersburg. Since this is the ninth year since the three prizes were seized—it is to be presumed that this court has long since taken an ultimate resolution respecting the compensation demanded by Congress." He continued by stating that while he was appreciative of his favorable reception at the court, yet he was much concerned because he had heard nothing of the matter which was the object of his mission. He closed his note by asking for a prompt reply.⁴⁹ In due time Bernstorff

⁴⁶ *Ibid.*, Vol. VII, pp. 340, 342, 355-62, 365; *Secret Journals of Congress*, Vol. IV, p. 413.

⁴⁷ Jones probably did not know that the king of Denmark was demented.

⁴⁸ *Diplomatic Correspondence, 1783-1788*, Vol. VII, pp. 365-368.

⁴⁹ *Ibid.*, Vol. VII, pp. 371-372.

replied that "a train of circumstances naturally brought on through the necessity of allowing a new situation to be developed of obtaining information concerning reciprocal interests, and avoiding the inconvenience of a precipitate and imperfect arrangement," had delayed the matter. He also stated that the Danish King was anxious "to renew the negotiations for a treaty of amity and commerce, and that in the form already agreed on, as soon as the new constitution (that admirable plan so becoming the wisdom of the most enlightened men) shall be adopted by a state which requires nothing but that to secure it perfect respect." He further stated that, since Jones did not have the final plenipotentiary power from Congress to settle the matter, it would be unnatural to change the place of negotiations from Paris to Copenhagen, especially since they had never been broken off but only temporarily suspended. He concluded by wishing that friendly relations might continue to exist and that a treaty might be negotiated.⁵⁰

This letter terminated the mission of Jones in Copenhagen. The wily Bernstorff had been able to defer the settlement of the question again. Soon after this, Jones entered the service of Czarina Catharina II as commander of the *Wolodimer*. He inquired several times of Jefferson and Baron De La Houze as to the status of the Bergen prize claims; but not until March, 1790, did he obtain a reply that conveyed anything definite. De La Houze wrote to him at that time as follows: "As to the affair concerning which you speak to me, and in which you have been witness to my zeal,—it remains still at the same point where you left it on your departure for St. Petersburg, the 15th of April 1788." He went on to comfort him by saying that the fact that Jefferson, who understood the case so well, had become Secretary of State would be of great value in the future negotiations. At the present time, however, the disturbed conditions in Europe would be likely to make a settlement difficult.⁵¹

⁵⁰ *Ibid.*, Vol. VII, pp. 394-396.

⁵¹ *Ibid.*, Vol. VII, pp. 399-401. By the "disturbed conditions" was

Another year passed. By this time Jones had left the Russian service and had come to Paris, from which place he wrote to Jefferson on March 20, 1791: "But I must further inform you, that a few days after my arrival from Denmark at St. Petersburg, I received from the Danish Minister at that court, a letter under the seal of Count de Bernstorff, which, having opened, I found to be a patent from the King of Denmark, in the following terms:

" 'Having reason to wish to give proof of our good will to the Chevalier Paul Jones, Commodore of the navy of the United States of America, and desiring, moreover, to prove our esteem on account of the just regard which he has borne to the Danish flag, while he commanded in the Northern seas, we secure to him, from the present date, during his life, annually, the sum of fifteen hundred crowns, currency of Denmark to be paid in Copenhagen without any deduction whatever.'

"The day before I left the Court of Copenhagen, the Prince Royal had desired to speak with me in his apartment. His Royal Highness was extremely polite, and after saying many civil things, he said he hoped I was satisfied with the attention that had been shown to me, since my arrival and that the King would wish to give me some mark of his esteem.

" 'I had never had the honor of rendering any service to his Majesty.'

" 'It matters not; a man like you should be an exception to the ordinary rules; you have shown yourself delicate, none could be more so with respect to our flag; everybody loves you here.'

"I took leave without further explanation. I have felt myself in an embarrassing situation, on account of the King's patent, and I have as yet made no use of it, although three years are nearly elapsed since I received it. I wished to consult you; but when I understood you would not return to Europe, I consulted Mr. Short and Mr. G. Morris, who both gave me as their opinion, that I might with

meant war, which had broken out between Sweden and Denmark, Russia aiding the latter.

propriety accept the advantage offered. I have, in consequence, determined to draw the sum due; and I think you will not disapprove of this step, as it can by no means weaken the claims of the United States; but rather the contrary."⁵²

From this letter it is clear that Bernstorff, who did not wish to pay an indemnity for the Bergen prizes, now at least wanted to be on friendly terms with our government. The patent given to Paul Jones was evidently given for the purpose of soothing his feelings and making him satisfied so that he would not further press his claims. The individuals involved in the case being satisfied the government of the United States would naturally drop the matter, and the whole unfortunate affair would be forgotten. For some time, at any rate, the matter was lost sight of, but we shall meet the problem again at a future date.

6. *Ordination of Episcopalian Ministers.*

In 1783 an American gentleman, who had gone to London to receive ordination as a clergyman in the Episcopalian church, wrote to John Adams, our representative at The Hague, stating that he had been refused ordination by the Bishop of London and the Archbishop of Canterbury, because he would not take an oath of allegiance to the English crown as required of the clergy of the Church of England. He was desirous of learning whether it would be possible for a ministerial candidate to "have orders from Protestant Bishops on the continent."

Soon afterwards when John Adams by chance met M. de St. Saphorin, the Danish envoy to The Hague, he inquired for the sake of curiosity what stand Denmark would take on the matter. Although Mr. Adams only intended this to be current conversation, the Danish envoy referred the matter to his home government which took it up with the Faculty of Theology of the University of Copenhagen. The decision which was favorable, was transmitted by the Danish Privy Councillor, Count Rosencrone, to John Adams through M. de St. Saphorin in the form of regular diplomatic cor-

⁵² *Ibid.*, Vol. VII, pp. 408-413.

respondence for the Congress of the United States. It stated that candidates for the Episcopalian ministry could be ordained in Denmark according to Danish rites, and without taking any oath of allegiance. The services would be performed in Latin.⁵³ Adams reported the matter to the president of Congress on April 22, 1784. In March, 1785, this body sent a communication to Adams instructing him to thank his Danish Majesty through M. de St. Saphorin for the liberal decision rendered.⁵⁴ It does not appear, however, that the Episcopalian clergy in America ever took advantage of the offer.

⁵³ *Ibid.*, Vol. II, pp. 127-130.

⁵⁴ *Secret Journals of Congress*, Vol. III, p. 550.

CHAPTER II

PROBLEMS OF THE NAPOLEONIC ERA, 1800-1815

1. *Interchange of Representatives.*

As early as 1785 it was realized by the United States that it would be advantageous to have a regular representative in Copenhagen. Congress proposed "that at courts where no ministers reside the *chargé d'affaires* of the United States be empowered to exercise the duties of consul general. That consuls shall reside at Copenhagen." The proposal, however did not pass.¹ Since the diplomatic posts at Madrid, Berlin, and St. Petersburg were filled only occasionally, it could not be expected that such small posts as that at Copenhagen should be taken care of.

Since Denmark discriminated against the trade of nations which had no relations with her through treaties or representatives, American Merchants were very much at a disadvantage in Danish ports. During the latter half of Washington's first administration Thomas Jefferson, the Secretary of State, proposed that we appoint a consul to be located at Copenhagen. He suggested the name of Hans Rudolph Saaby, a wealthy Danish merchant. Our custom had been to make a foreigner only vice-consul; but as that would not be in harmony with Danish custom, the higher rank was proposed, and Mr. Saaby was appointed March 6, 1792.²

During the early days of our national existence state affairs were negotiated between the United States and Denmark through their ministers to France. Such negotiations were later carried on in London. Thus in 1799 a question of an alien inheritance tax was handled by Rufus King and Count Wedel de Jarlsberg, the representatives at the court of St. James,

¹ *Secret Journals of Congress*, Vol. III, pp. 593-595.

² *Writings of Thomas Jefferson*, Vol. V, pp. 421-422; J. D. Richardson, *Messages and Papers of the Presidents*, Vol. I, p. 117.

from the United States and Denmark respectively.³ Denmark, however, realized that it would be of value to have a representative in America; and on November 23, 1800, the American government was informed through Rufus King that Sir Blicher Olson would be sent to the United States as Minister Resident and Consul General.⁴

2. *The Case of the Brig Hendrick.*

During the rupture of diplomatic relations between the United States and France, following the X, Y, Z affair, several cases arose which are of interest in the present narrative. It appears that the brig *Hendrick*⁵ under Captain Peter Scheelt, of Altona—which at that time was under Danish jurisdiction—sailed from Hamburg for Cape Francois in the West Indies. On October 3, 1799, it was captured by a French privateer, and on October 8 it was recaptured by the American sloop of war *Pickering* under the command of Benjamin Hillier and brought into the port of Basseterre, in the British island of St. Christopher, also known as St. Kitts, one of the Leeward Islands. Here the American captors brought it before the British court of Vice-Admiralty, which ordered that in accordance with the laws of the United States the ship should be sold and one-half of its value awarded to the captors as salvage, while the other half, after deducting court expenses, was to be given to the owners.

Denmark made demands on the United States for the value of the ship and its cargo. The government investigated the case and found that the British admiralty court had

³ *Life and Correspondence of Rufus King*, Vol. III, p. 161.

⁴ *Ibid.*, Vol. III, pp. 334-35, 338-339. A gentleman by the name of Campbell had presented himself to Jefferson as minister from Denmark in 1790. He did not have any credentials and was most likely an adventurer. Jefferson asked William Short, *chargé d'affaires* at Paris, to inquire of Count de Blome concerning the man, but it does not appear that a reply was received. *Writings of Thomas Jefferson*, Vol. V, pp. 235-236.

⁵ We use the Danish form. J. B. Moore in his work *International Arbitrations*, p. 4553, evidently makes a mistake by stating that there was a *Henry* and a *Hendrick* case. These are without doubt the English and the Danish forms of the name of the same vessel. The forms *Henrick* and *Heinrich* also appear in the documents.

erred in its interpretation of the laws of the United States. The rate of salvage awarded the Americans for recapturing the brig from the French privateers had been adapted from laws of the United States, which were applicable to recaptures of American property and of such as belonged to belligerent powers in amity with the United States. It had no reference to recaptures of neutral property. It was found that in certain peculiar cases of danger, a proportionate rate of salvage had been allowed in the past in neutral cases, but this case was different because the vessel was bound from a neutral port to a French port. Having been captured by a French vessel it would therefore not be in danger. The Danish government gave proof that, for a year preceding the capture of the *Hendrick*, most vessels carried into the French island Guadeloupe had been released, and in some cases even damages had been paid. Besides Denmark claimed that the rate of salvage in this case had been too high. It was shown that the vessel and cargo were worth \$44,500; but after satisfying the decree of salvage and paying the court expenses, not more than \$8,374.41 was left for the owners.

In February, 1803, President Jefferson laid the case before Congress and recommended that, since the Danish government had observed a friendly attitude toward the United States and since no remedy was now obtainable in the ordinary judicial course, that body should take the matter under consideration and vote an appropriation to the Danish government for the loss sustained.⁶

In accordance with the President's recommendation to Congress, the House very soon passed a bill to reimburse Denmark but it was defeated in the Senate.⁷ The matter was taken up in the next Congress but with the same result.⁸ Denmark, however, did not drop the case. She claimed that it was clearly the duty of the United States to pay for the vessel since even the officers of the government had ac-

⁶ *American State Papers, Foreign Relations*, Vol. II, pp. 483-486, 609-612, Vol. IV, pp. 629-632.

⁷ *Annals of Congress*, 7 Cong., 2 Sess., pp. 264, 265, 268.

⁸ *Ibid.*, 8 Cong., 1 Sess., pp. 235, 236, 239, 252, 257, 261, 276, 552, 562, 787, 798, 881, 883, 887.

knowledgeed that a mistake had been made. The commander of the *Pickering* had erred in taking the captured vessel before a British court, the sentence of which the United States had no power to review. The American government did not deny these facts but was impotent in the matter so long as Congress failed to make an appropriation for the purpose. The reason for the Senate's action became evident later.

In February, 1805, President Jefferson again laid the matter before Congress with the additional documents and arguments Denmark had produced. He stated that the owners of the *Hendrick* were entitled to relief and that according to the policy of the United States Congress should make provision for payment.⁹ As a result the following bill was introduced in Congress: "Resolved: that the sum of—dollars ought to be appropriated, out of the monies in the treasury, not otherwise appropriated, to enable the president of the United States to make such restitution as shall appear to be just and equitable, to the owners of the Danish brigantine called *Hendrick*, and her cargo, which were recaptured by an American armed vessel, in the year 1799, and sold by order of the Vice Admiralty Court, in the British island of St. Christopher: Provided; the Government of Denmark shall make compensation for the seizure of certain prizes, captured by the armed vessels of the United States, during the late Revolutionary war with Great Britain and carried into the port of Bergen in the year 1779, and which by order of the Danish Government were, without a judicial trial, restored to their original proprietors"¹⁰

This bill like its two predecessors passed the House but failed in the Senate. The action of the Senate seems hardly fair as the bill proposed to give justice to Denmark only in case she paid for the Bergen prizes. Congress was incidentally reminded of the latter just at this time. Peter Landais, the French-American commander of the *Alliance*, which captured the three prizes, kept pressing his claim on Congress.

⁹ J. D. Richardson, *op. cit.*, Vol. I, p. 377. For the documents referred to, see *State Papers and Public Documents, 1789-1815*, Vol. V, pp. 43-48.

¹⁰ *Annals of Congress*, 9 Cong., 1 Sess., p. 476.

The very Congress in which the bill just quoted was presented voted him \$4,000.00 to be subtracted from his final award.¹¹

As long as the United States government continued of the opinion that her claim on Denmark was fair, it is evident that the Senate was unwilling to pay indemnity for the *Hendrick* until a prior settlement was reached about the Bergen prizes. Since the Danish government steadfastly refused to recognize that claim, the Senate would not move. It evidently felt that when the State Department should reach an agreement with Denmark that was satisfactory to Congress, there would be plenty of time to appropriate money, if indeed any were needed.

While direct evidence is lacking, it is possible that an additional reason why the Senate did not act favorably was the fact that Denmark had recently imposed discriminating duties highly favorable to her own carrying trade.¹² Each nation, to be sure, is master of its own laws, but often selfish laws produce friction, or at least prejudice, between otherwise friendly powers.

3. *Murray vs. Charming Betsy.*

A case similar to the one just mentioned is that known as *Murray vs. Charming Betsy*. An American-built vessel called *Jane* sailed for the West Indies where its cargo was sold. Later the ship itself was sold to Jared Shattuck, a naturalized Danish subject in St. Thomas, who had been born in the state of Connecticut. Under the new ownership, with the name changed to *Charming Betsy*, it sailed for Guadeloupe in the French West Indies and was seized by a French privateer. Later it was recaptured by the United States warship *Constellation* under Captain Murray and taken to St. Pierre in Martinique. Its master was Thomas Wright, a Scot who had also become a Danish citizen residing in the Danish West Indies. In Martinique Captain Murray sold the cargo of the *Charming Betsy* because he believed Shattuck was an Amer-

¹¹ *Ibid.*, For the bill, pp. 142, 143, 162, 164, 189, 191, 281, 476, 480, 510, 516. For the award, 435, 453, 516, 520, 779, 799, 824, 838. See also *Statutes at Large*, Vol. VI, p. 61.

¹² *American State Papers, Commerce and Navigation*, Vol. I, p. 504.

ican citizen carrying on an unlawful trade with the French. After that he took the ship itself to Philadelphia.

Jared Shattuck claimed the vessel and sued to gain possession of her as well as to secure damages for the loss of her cargo. The case was tried in the Federal District Court of Pennsylvania under Judge Peters, who awarded the ship and damages to Shattuck on the ground that he was a Danish citizen. This conclusion he had reached from the fact that Shattuck was holding real estate in St. Thomas, which according to Danish Law he could not do as a foreigner. The case was appealed to the Circuit Court and finally to the Supreme Court of the United States where in February, 1804, Chief Justice John Marshall handed down a decree containing the following points:

(1) Jared Shattuck was before the law a Danish citizen, hence the *Charming Betsy* was Danish property;

(2) the American recaptors were not entitled to salvage because the vessel, being captured on her way to a French port by the French, was not in imminent danger of condemnation;

(3) Captain Murray was not justified in breaking up the voyage of the *Charming Betsy*, because no American citizen has a right to interfere with the property of Danish citizens when sailing under neutral flag on the high seas; and

(4) Captain Murray, therefore, must release the *Charming Betsy* to Jared Shattuck and pay damages.¹³

This case arose under the same circumstances as the case of the *Hendrick*. The reason the case was so easily settled was because the sentence of the court was directed against a private individual, who could not take advantage of the Bergen prize claim. As Captain Murray was an officer in the United States navy and as such had acted in good faith, it was natural that Congress should reimburse his loss. In

¹³ Murray vs. *Charming Betsy*, 2 Cranch, pp. 64-125.

1805 he was paid the original amount and interest by the government.¹⁴

4. *Shattuck vs. Maley.*

This case was also connected with the name of Jared Shattuck and took an even more prominent place in our diplomatic relations than that of the *Charming Betsy*. Through Richard Soderstrom, who was for a time in charge of the consular affairs pertaining to Denmark, the facts of the case were presented to our foreign department in June, 1801. In 1800 the schooner *Mercator*, owned by Jared Shattuck, laden with a cargo of merchandise and consigned to Toussaint Lucas, the master of the vessel, sailed from St. Thomas for Jacmel and Port Republic in the island of St. Domingo. The cargo was valued at \$13,920. On May 14 as the vessel was entering the port of Jacmel, it was met by the *Experiment*, an armed schooner of the United States navy under the command of Lieutenant William Maley. The American commander took possession of the *Mercator* and put on board of her a prize-master and four seamen who took the vessel to some place not known to the owner. The ship was never brought to legal adjudication in any court of the United States to the knowledge of Jared Shattuck. In the petition to the State Department Mr. Shattuck asked for redress of grievances.

James Madison, our Secretary of State, informed Soderstrom that the regular way to handle this case would be through the courts of the United States. Soderstrom in return stated that in Europe, as well as in America, such cases were often settled through the foreign department. In this case, he added, the leading individual involved, Lieutenant Maley, was insolvent and outside of the United States; therefore it would be difficult to pursue the case to any advantage in the courts. To this Madison replied that it would be best to follow the regular procedure and that suit should be brought by the Minister Resident of Denmark, P. Blicher Olson, as he was the only proper organ through whom

¹⁴ *Statutes at Large*, Vol. VI, p. 56.

Danish subjects could demand reclamation.¹⁵ Accordingly the case was taken up in the Federal District Court of Pennsylvania, appealed to the Circuit Court, and finally to the Supreme Court of the United States. In his usual masterly style Chief Justice John Marshall rendered the decision in 1806.¹⁶

In the trial Maley claimed that the *Mercator* was an American vessel carrying on an illicit trade with the French West Indies. When he met her she was on her way from Baltimore to Port-au-Prince, a place in the possession of British troops, although her papers declared she was proceeding from St. Thomas to Jacmel. He also declared that the name of the master of the *Mercator* indicated that he was a Frenchman or perhaps an Italian, while his crew were largely Portuguese. According to Danish law foreigners could not legally command and navigate a Danish vessel. He further declared that Jared Shattuck was an American who had gone to St. Thomas to carry on an illicit and clandestine commerce with French ports. In order to make no mistake he had left undisturbed the papers on board the vessel, and had sent her with an officer and four seamen to Cape Francois to be delivered to Silas Talbot, then commander of the public vessels of the United States in those waters, with instructions that she should be delivered to her master if Commodore Talbot cleared her. About six hours later the *Mercator* was captured by the British privateer *General Simcoe*, commanded by Joseph Duval, who brought her to Jamaica where she was libeled as French or Spanish property in spite of the denial of Jared Shattuck. She was condemned as a lawful prize and confiscated to the captors. Maley therefore contended that since peace existed between the United States, Great Britain and Denmark, the *Mercator* would have been cleared in the British court if she had been Danish property.

Jared Shattuck presented proof that though born in Connecticut he was a Danish citizen, that Port-au-Prince, was not held by the British but by General Toussaint L'Ouverture, that all the papers were in good and regular order, that the

¹⁵ *American State Papers, Foreign Relation*, Vol. III, pp. 344-347.

¹⁶ *Maley vs. Shattuck*, 3 *Cranch*, 458.

master, though Italian by birth, was a Danish citizen, and that Danish law did not require the crew of a vessel under the flag of Denmark to be Danish citizens in time of peace. The District Court had awarded the owner \$41,658.67. This was changed in the Circuit Court to \$33,244.67. From this decree Maley appealed to the Supreme Court of the United States which sustained the lower court.

While Shattuck had won his case in the courts he had not yet obtained the money. As Maley was an officer of the Navy and insolvent, the government was asked to pay the damage. This in turn necessitated action by Congress. Here the same difficulties were met as in the case of the *Hendrick*. In 1810 the Danish Minister Peder Pedersen requested that the award of the court be paid. By a Senate resolution the President was asked to lay before that body all the correspondence and documents connected with the case. This was done but the claim was not paid,¹⁷ for other circumstances had now arisen, which will be presented in a later connection.

5. *Danish Aid in Tripoli.*

While the cases mentioned above were pending, the United States was involved in what is known as the Tripolitan War. Several times Americans had been captured and imprisoned in Tripoli. The consul of Denmark, Nicholas C. Nissen, residing at Tripoli did all in his power to aid the Americans. In 1802 Andrew Morris, captain of the brig *Franklin* wrote to a friend: "Through the interference of Mr. Nissen, his Danish Majesty's consul here, I have the liberty of the town." When in the year 1803 Captain William Bainbridge was captured with the officers and crew of the ship *Philadelphia* and imprisoned under such conditions that it was impossible for them to procure the necessary food and clothing. Mr. Nissen took care of the American prisoners for more than nineteen months, part of the time at his own expense.¹⁸ In sending a request to Commodore Samuel Barron for a person to come ashore, Bainbridge suggested that it would be best for that

¹⁷ *Senate Journal*, 9-11 Cong., Vol. IV, p. 466; *Annals of Congress*, (1810), 11 Cong., Pt. II, pp. 2158-2166.

¹⁸ *American State Papers, Naval Affairs*, Vol. 1, pp. 122-124, 150-151.

individual to come under the guaranty of the Danish consul as he was "a man of unquestionable integrity" and was "actuated by a desire to serve."¹⁹

The negotiations between Tobias Lear, commander of the United States frigate *Constitution*, and the Bashaw of Tripoli, which led in 1805 to the final settlement of the Tripolitan trouble were also carried on through the Danish consul.²⁰ It was therefore natural that Congress should show its appreciation by passing a joint resolution in 1806 thanking Nicholas C. Nissen for his disinterested services.²¹

6. *Danish Spoliation of American Commerce.*

The treaty of Tilsit in 1807 created a situation in which England was forced to act quickly and effectively. Consequently she demanded of Denmark that her navy should be surrendered to the safe keeping and control of the British fleet, but promised that it would be restored after the war. As England probably expected, Denmark rejected the proposition as it would make her a vassal of her powerful neighbor to the west. Great Britain, however, was confronted with a situation which had to be settled without delay. As a result, on September 2, 1807, she bombarded Copenhagen and forced the surrender of the Danish fleet, consisting of twenty-two ships of the line, ten frigates, and forty-two smaller vessels.²²

The natural outcome of this action was that Denmark joined France in her war against England. A large number of privateers were fitted out for the express purpose of preying on the English Baltic trade, which was being carried on in spite of the fact that Alexander I of Russia had joined Napoleon. By a royal order issued at Rendsborg on September 14, 1807, Danish privateers were instructed to bring into port all English vessels and property of any kind.²³

¹⁹ *State Papers and Public Documents*, Vol. V. p. 412.

²⁰ *American State Papers, Foreign Affairs*, Vol. II, pp. 717-718.

²¹ *Annals of Congress*, 9. Cong., 1 Sess., p. 1296.

²² *Cambridge Modern History*, Vol. IX, pp. 237-39, 243, 294-300, 344.

²³ *American State Papers, Foreign Relations*, Vol. III, pp. 327-328; Law of September 14, 1807. See Bibliography.

This order made it very hazardous for English vessels to ply through the Danish Sound and Belts.

England tried very hard to continue her trade, and a large number of her merchantmen sailed under armed convoy. The demands on the British navy, however, were so great that it was impossible to protect her whole merchant marine; consequently a large number of vessels found it necessary to protect themselves by posing as neutrals. With false papers and under the flag of the United States, the only nation that was neutral, they attempted to deceive the Danish privateers. As a result Denmark felt obliged to take measures to capture all ships under false flag. This course, of necessity, carried with it the danger of seizing a large number of vessels that were truly neutral, and of trying them under the smallest and flimsiest pretexts possible. To this danger was added the fact that the captains and crews of privateers shared a great part of the booty thus obtained, which made them greedy to capture vessels and secure their condemnation no matter whether they were enemy or neutral.

It was under these circumstances that in July, 1809, forty-three American citizens in Christiansand, Norway, petitioned the President of the United States for aid, since they had been captured by Norwegian privateers, subject to Denmark, while pursuing their lawful business. They admitted that many Americans had connived with England to cheat Denmark, and that England was fitting out her vessels to look like those of the United States; yet they felt that they had not been treated fairly in the courts of Norway. Even though they had proved in court that their property was neutral, their voyage legal, and their capture consequently illegal, yet they had been forced to pay from 400 to 600 rixdollars to their captors. The American consul, Mr. Saabye, of Copenhagen, had been unable to aid them. They hoped for help from America as they were liable to starve. They also recommended that the President make a certain Peter Isaacsen, who had given them much aid, American consul in Norway.²⁴

²⁴ *Ibid.*, Vol. III, pp. 328-333; *State Papers and Public Documents*, Vol. VII, pp. 314-330.

Closely following upon this request came a communication to the State Department from Peter Isaacsen himself, dated August 11, 1809. In this he stated that there were twenty-six American vessels held captive in Norway at that time. Eighteen of these had been tried and eight were still awaiting trial. Of the eighteen, eight had been cleared and ten condemned. He explained that England had used every conceivable means to deceive Denmark, so that navigation had practically ceased to be considered an honest business. False, falsified or double sets of papers were so common that the strictest inquiry was absolutely necessary to ascertain the true identity of a vessel. This was the cause of the hardships experienced by American sailors in Norway. He promised to watch over the interests of Americans as well as circumstances would permit.²⁵

In October of the same year, the American consul at Copenhagen sent a list of fifty-one ships, which were claimed by Americans but which had been captured by Danish privateers. Twenty-one of these had been condemned, and the cases of all but two of these had been appealed to a higher court. Twenty-two had been cleared. Seven had been cleared in the prize courts but the captors had appealed the cases. One was still pending. About the same time, also, seventy individuals and firms sent a communication from Philadelphia in which they claimed loss for damages sustained as a result of Danish privateering. They requested the government to intervene in their behalf.²⁶

By this time Denmark had become aware that, though her privateers were doing effective work in disturbing British trade in the Baltic, they were also shutting off the importation of food supplies to Norway. On August 6, 1809, Prince Christian August wrote to the King of Denmark that the conditions in Norway were very serious and that he believed a prohibition of privateering would be advantageous. The king replied that he had already repealed the order of September 14, 1807, until further notice.²⁷ It was hoped that

²⁵ *American State Papers, Foreign Relations*, Vol. III, pp. 330-331.

²⁶ *Ibid.*, Vol. III, pp. 332-333.

²⁷ J. V. Raeder, *Danmarks Krigshistorie, 1807-1809*. Vol. III, pp. 534-

the prohibition of privateering would cause England to allow ships to enter Norwegian harbors, but it had the opposite effect. The English war vessels that had been busy fighting Danish privateers were now employed to blockade the Norwegian ports. It was therefore of no use for the Danish government to offer a bonus of two and one-half rixdollars for each ton of food shipped to Norway.²⁸

Denmark now made a very wise move. On December 10, 1809, she established peace with England's ally, Sweden, in the treaty of Jönköping. This made it possible for Norway to secure food through Sweden and immediately the Danish privateers were sent out to harass English shipping.²⁹ This explains President Madison's statement to Congress in his annual message December 5, 1810, to the effect that: "The commerce of the United States with the North of Europe, hitherto much vexed by licentious cruisers, particularly under the Danish flag, has lately been visited with fresh and extensive depredations."³⁰

In view of these conditions in Europe, the American government soon realized that it was necessary to have a representative in Copenhagen. It was therefore decided to send George W. Erving as special envoy to the Danish government. As soon as he arrived at his post he got in touch with the Danish Premier, Baron Rosenkrantz, who also had charge of foreign affairs. Erving requested that the action of Danish prize courts be temporarily suspended in American cases in order that more definite knowledge might be obtained concerning each case before them. This request was made on June 6, 1811, shortly after he arrived in Copenhagen. At the same time he sent to Baron Rosenkrantz two lists of captured American ships, the cases of which were pending before the Danish courts. The first list containing the names of twelve ships, dealt with vessels, concerning ten of which there was no question in regard to

536. Saahye in his report, mentioned in the text, stated that the order was repealed August 1, 1809.

²⁸ *Ibid.*, pp. 570, 589.

²⁹ *Ibid.*, pp. 629-689, *passim*.

³⁰ *American State Papers, Foreign Relations*, Vol. I, p. 77.

nationality. They had been captured under "clause 'D' of the eleventh article of the royal instructions of March 10, 1810, declaring as a cause of condemnation, 'the making use of English convoy.'" The second list was made up of sixteen ships which had been captured because among their papers were French certificates of origin, that were supposed to be forgeries, as Denmark had been informed by France that French consuls in America had been ordered to discontinue issuing them.³¹

Erving did not wait to receive a reply to this letter, but on the following day sent another note to Baron Rosenkrantz in which he entered more fully into the problem of the ships under English convoy, henceforth referred to as the "convoy cases." Two of the twelve were laden with goods for England and no contention was made for them. The other ten, however, were on their way from Baltic ports to America. They had passed the Sound and paid the Sound Dues. When they entered the Cattegat they had been arrested by a British naval force and "compelled to join convoy." He contended that the Danish instructions of March 10, 1810, were unfair and contrary to international law in this instance because they did not take into consideration the circumstances that had brought the ships under the enemy convoy. He asked the Danish authorities to cite "examples of the practice of nations" to support the legality of the instructions. On the other hand he claimed that even England had never gone so far as to condemn a vessel on the mere ground that it had been captured under enemy convoy. He called Denmark's attention to the brave fight she herself had undertaken to maintain the rights of neutrals in 1780 and 1800, and he closed the letter with expressing the hope that justice might be done, which would be so much easier in this case because the vessels had been captured by national ships and not by privateers.³²

On June 28, 1811, Erving received a reply from Rosenkrantz. After expressing his satisfaction because friendly feeling had always existed between Denmark and the United

³¹ *Ibid.*, Vol. III, pp. 522-523.

³² *Ibid.*, Vol. III, pp. 524-525.

States, Rosenkrantz went on to explain the cases involved in their correspondence. In regard to the "French certificates of origin" it was now clear that the cases rested on a misunderstanding. On September 22, 1810, the French government had informed Denmark that the consuls in America had been instructed not to issue them. It now appeared these orders had not reached the consuls in America until November 13. The Danish government had therefore ordered her judges of admiralty courts not to adjudge French certificates as evidence against the ships, providing they were issued prior to that date. In regard to the "convoy cases" the Danish government felt that the rule laid down in the instructions must be followed, as enemy convoy destroyed their neutral character. He held that this principle was just and would even be enforced if a Danish vessel should use English convoy. He called Erving's attention to the fact that at the time when all other European ports were closed to American vessels those of Denmark were open. This should convince the United States that Denmark desired their friendship and was doing nothing from hostile motives.³³

In answer to this communication Erving immediately replied that he was thankful for the spirit expressed, which, of course, he had expected knowing the general trend of the Danish court. He was sorry, however, that the Danish prize courts did not always follow the spirit of His Majesty, and he mentioned the decision of the High Court on March 11th, 1811, in the *Swift* case in which a vessel had been condemned on the sole statements of the privateers, who, it had been proved, had perjured themselves. American evidence was not admitted in this trial. He was unable, however, to agree with the arguments given in the "convoy cases." The United States would not dispute the right of Denmark to enforce the instructions of March 10, 1810, on her own citizens; but it was quite a different matter when other nations were involved. In fact it was inconceivable that a Danish ship, subject to capture by the British, could be found under British convoy.

³³ *Ibid.*, Vol. III, pp. 525-527.

Such a ship would be carrying enemy property and would therefor be guilty of treason. It would merit the severest punishment. He insisted that the words "using convoy" in the royal instructions must surely be construed to mean "voluntary convoy," and could thus not cover the "convoy cases." To condemn vessels under such unfortunate circumstances would not be a just course for any power to pursue toward a friendly neutral.

In spite of this strong reasoning, Rosenkrantz declared in his next communication that His Majesty could not make any change in his instructions to his privateers. Any American vessel under the convoy of British war vessels, if captured in the future by Danish ships, would be considered a lawful prize. No European power had called in question the justice of this rule. In later correspondence Erving showed that two of the "convoy cases" were ships that had been captured by Denmark and released by the Danish courts because their neutrality was fully established. It was thus clear that the vessel had not voluntarily joined convoy. In the case of the *Hope*, Captain Rhea, the British commander, Charles Dashwood of H. M. S. *Pyramus*, had boarded the vessel and entered on the ship's papers that he had ordered her to join convoy to prevent her going to an enemy's port with provisions and to prevent her from being captured by England's enemies.³⁴

In Erving's report to the Secretary of State, he made a summary of the arguments that he had put before the Danish government in behalf of the Americans. The most flagrant violations made by Denmark were those connected with the "convoy cases." He enclosed tabulated reports of the situation of American claims which show the following status on May 30, 1811:

Captures in 1809.....	63
Captures in 1810.....	124
Total.....	187
<hr/>	
Cleared	114
Condemned	31
Pending	14

³⁴ *Ibid.*, Vol. III, pp. 527-529; *State Papers and Public Documents, 1789-1815*, Vol. VIII, pp. 307-308.

Condemned cases of a desperate character.....	16
Cases transferred to Paris.....	2
Convoy cases pending.....	10
Total.....	187

As privateering at this date was still going on, the number swelled to much greater proportions.³⁵

Because many vessels had been condemned and sold by Danish prize courts, and because it was impossible to reverse such action, Erving, finally on November 4, 1811, presented reclamation claims to the Danish government. His communication was soon after answered by Baron Rosenkrantz who sent a counter-claim to Mr. Erving for the *Hendrick* and the *Mercator* cases, which have been described above. Soon after this Rosenkrantz sent a direct reply to Erving's note of November 4, the gist of which was that as Denmark had been fair in her prize decisions it would be impossible to pay for the condemned vessels. Erving's counter-reply was clear and straightforward. He reminded the Danish government that in the two cases mentioned the United States had broken no international law, but that the cases had arisen through error of officers, for which errors Denmark might yet expect to receive redress. The action of Denmark, on the other hand, was a direct violation of the laws of nations. If this were not so, he had invited the Danish Minister of Foreign Affairs to discuss the principle upon which the reclamation was founded. "Can it be deemed to be a satisfactory answer to such a reclamation that other nations have submitted to similar decisions? Can it be imagined that the term 'definitive' as applied to such decisions is conclusive against the United States? Can it be expected that they will acquiesce in a decision as just, because it is termed 'definitive'?" He explained that the various governmental instruments, such as courts, were created by the sovereign who was responsible for their action. When a foreign nation was injured by a tribunal, the sovereign could not refer it for justice to the instrument

³⁵ *Ibid.*, Vol. VII, pp. 314-342; *Ibid.*, Vol. VIII, pp. 205-233, 305-323; *American State Papers, Foreign Relations*, Vol. III, pp. 521-536, 557-567. These references give the correspondence and the reports in full.

that caused the complaint. "What is this but to adopt the injustice complained of?" Once the decisions of courts were made the controversy was no longer between individuals, the ship-owners and the privateers, but between the American government and the Danish king. As Denmark could rest assured that America would pursue her reclamation claim, he hoped that a plan might be adopted which would satisfy our government.

In a very conciliatory note of May 8, 1812, Rosenkrantz declared to Erving that, if it could be proven that American subjects had just cause for complaints, his Danish majesty would be very willing to redress their grievances. From this statement it would appear that the Danish foreign minister did not recognize that 'it had become a government affair only.³⁶

The last communication from George W. Erving to Baron Rosenkrantz was dated April 18, 1812. As stated, Rosenkrantz' reply came May 8. Soon after this Erving left Copenhagen for Paris and the United States consul at Hamburg, John M. Forbes, was sent as *chargé d'affaires* to take care of the few cases that were still pending before the courts of Denmark. As the War of 1812 started in June, the Danish situation naturally became a minor affair compared with the task of fighting England. At the same time it became impossible for American merchantmen to sail the high seas. Consequently Danish spoliation stopped for lack of material to capture. For the time being our claims on Denmark lay dormant. In a later chapter the adjudication of the spoliation claims will be taken up.³⁷

³⁶ *State Papers and Public Documents*. Vol. IX, pp. 90-119.

³⁷ Erving's correspondence concerning the Danish spoliation is also found in *Annals of Congress*, 12 Cong., 1 Sess., Pt. II, pp. 1980-2016, and 12 Cong., 2 Sess., pp. 1201-1222.

CHAPTER III

THE NEGOTIATION OF TREATIES AND THE SETTLEMENT OF CLAIMS, 1815-1847

Although the international relations that have been traced in the two preceding chapters covered a period of more than forty years, during which time a large number of disagreements had arisen, yet friendly relations continued to exist. This state of affairs could hardly be expected to continue, however, unless a settlement of the disputed points could be reached. It is the solution of these problems that will be set forth in this chapter.

1. *Danish Claims against the United States.*

Denmark's efforts to obtain satisfaction for the loss of the *Mercator* and the *Hendrick* have already been set forth. In 1812 she renewed the claim in behalf of Jared Shattuck for the loss of the *Mercator*. A bill was introduced in Congress by the committee on claims, proposing that relief should be given. This bill passed both houses; but as no further trace of it appears anywhere, it is probable that it was handed to the president for his signature at the close of the session and disposed of by a "pocket veto".¹

In December, 1819, President Monroe laid before Congress the case of the brig *Hendrick*, for which Denmark had renewed her claim, through her minister at Washington and C. N. Buck, consul-general of Hamburg at Philadelphia. The case was taken up in the Senate but reported unfavorably on account of existing claims of the United States against Denmark.²

2. *The Treaty of 1826.*

It was a rule of Denmark to discriminate against nations

¹ *Annals of Congress*, 12 Cong., 2 Sess., pp. 54, 64, 65, 66, 67, 197, 844, 849.

² *American State Papers, Foreign Relations*, Vol. IV, pp. 629-632; *Annals of Congress*, 16 Cong., 1 Sess., pp. 39, 801, 891, 1169, 2253-2259.

with which she had no treaty relations, by putting higher duties on goods imported from them than was placed on imports from countries with which treaties were established. It was for this reason that Washington in 1792 placed a consul at Copenhagen.³ This action, did not remove the discriminating duties.⁴ Several times the United States government was reminded by her consuls at that port that our merchants were paying half again as high duties as those of Great Britain, Holland, France and the other nations which had treaties with Denmark.⁵

It seems probable that this situation caused the United States to take active steps to bring about treaty relations. Just how much preliminary correspondence passed between the two governments before a treaty was finally made we cannot say, for the dispatches in the archives at Copenhagen covering the period 1821-1829 do not even mention that correspondence had been carried on; but on April 26, a "Convention of Friendship, Commerce and Navigation" was concluded between Peder Pedersen, the Minister Resident of Denmark at Washington, and Henry Clay, the American Secretary of State.

The treaty of 1826, which, with a few changes, is still in force, consists of twelve articles touching on the most vital points of international relations. In brief outline the contents are as follows: Article I, contained the most favored nations clause. Article II, provided that, the coasting trade excepted there should be freedom of trade between the two countries. By Article III, mutual privileges were established in regard to importation, exportation, and re-exportation of all articles, which might be lawfully handled in the respective countries. The duties of one country upon vessels of the other should not be higher than on native vessels. Article IV, provided that duties and prohibitions should not be placed on imports and exports between the two countries unless the same became equally binding on other powers. Article V declared that, in

³ *Writings of Thomas Jefferson*, Vol. V, p. 421.

⁴ *Ibid.*, Vol. VI, p. 476.

⁵ *American State Papers, Commerce and Navigation*, Vol. I, p. 504; *Ibid.*, Vol. II, pp. 353, 367.

regard to the duties in the Sound and Belts, the United States should be on the same basis as the most favored nations. Article VI stated that the convention should not pertain to the northern possessions of Denmark nor to the direct trade between Denmark and the Danish West Indies. According to Article VII, taxation in either country, in case of removal of the respective subjects of the other, should not be higher than that paid by its own citizens. By Article VIII, mutual exchange of consular representatives on the basis of the most favored nations clause was to be established. It was provided by Article IX that, exequatur having been granted, the representatives of the two powers should be recognized by all authorities and inhabitants in the district where they resided. According to Article X, consuls, and their foreign servants, should be exempted from services and taxes, and the archives of the consulate should be inviolable. Article XI declared that the convention should be in force for ten years, and further until the end of one year after either party gave notice to terminate it. Under Article XII, ratifications were to be exchanged within eight months.⁶

Before the Secretary of State was willing to affix his signature to this document, he sent a note to Chevalier Pedersen, Minister Resident from Denmark, to the effect that this treaty should not be interpreted to mean that the United States waived her claims for indemnities due to her citizens from the Danish government. The minister was requested to transmit the note to Denmark together with the text of the treaty. Upon the acknowledgment of the receipt of this note by Pedersen, Henry Clay signed the treaty.⁷

Soon after the treaty was ratified Steen Bille took up the work of Chevalier Pedersen as Danish representative at Washington. In November, 1826, Henry Clay inquired of him whether he had received any information as to the interpretation that Denmark placed on Article VII of the treaty. It

⁶ W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 373-377. *American State Papers, Foreign Relations*, Vol. V, pp. 905-907, *Department of Foreign Affairs. Philadelphia Beretninger 1821-1829. Nordamerika II. Rapportør.* (American dispatches, package 2. Rigsarkivet, Copenhagen.)

⁷ *American State Papers, Foreign Relations*, Vol. V., p. 907.

had been rumored in the United States that American citizens could not remove their property from the islands without paying the tax known as "sixths" and "tenths." It was expressly for the benefit of these citizens that the clause had been inserted. Steen Bille answered immediately that he had anticipated such fears, and as soon as he arrived he informed his government of the interpretation that might be made by the authorities of the islands. He had received answer that the Danish government well understood why the article was included in the treaty. Americans could rest assured that nothing would be done which would defeat the original intent.⁸

3. *The Arbitration Treaty of 1830.*

In pursuance of the intention to press our claims against Denmark, the House of Representatives in May, 1826, requested the Secretary of State to lay before it a full report of the claims for indemnity due from that country. This report, given in January, 1827, revealed that there were in all 167 claims amounting to \$2,662,280.36.⁹ It was evident that if we were ever to obtain payment for those losses we would have to send a minister to Denmark. Consequently Henry Wheaton was appointed to go to Copenhagen to negotiate a settlement. In May, 1827, Henry Clay sent instructions to Wheaton and stated that where his instructions were silent he should follow international law and always keep in mind that we wanted a friendly feeling to exist between the United States and Denmark. After reviewing the history of the spoliation cases, which was based on the correspondence of George W. Erving and Baron Rosenkrantz, Clay proceeded to set forth the details connected with the cases. He showed that the seizure and condemnations had been made on the following grounds: (1) possession of false papers making British property appear to be American; (2) sailing under British convoy, hereby losing the immunity our flag afforded; (3) possession of French consular certificates of origin after the French consuls had been

⁸ For the correspondence between Clay and Bille see *Niles' Weekly Register*, (1826) Vol. XXXI, pp. 220-221.

⁹ *American State Papers, Foreign Relations*, Vol. VI, pp. 384-385, 504-535. 614-624.

prohibited from issuing them, except to vessels bound for France.

In regard to the first of these grounds, Clay stated that the principle followed by Denmark was entirely correct. We were as anxious as any that those who sailed under our flag unlawfully should be punished. In these cases it was only a question of establishing the facts proving whether the vessels condemned were truly American or not. He further held that in regard to the "convoy cases" it was a question of whether or not convoy had been joined voluntarily. Even in the case of voluntary assumption of convoy it would depend on the purpose for which it had been joined. If neutrals had not joined convoy for an unlawful purpose, there would be no reason why they should be captured and condemned by Denmark. Being unarmed they would not add to England's strength. Indeed, they would weaken her power, as they expanded her sphere of protection. If a friend's goods on an enemy's vessel were not liable to condemnation, there would be no reason why a friend's goods in a friend's vessel should be liable to condemnation just because that vessel was under enemy convoy. In an enemy's vessel the goods of a friend would surely be more closely blended with that of the enemy than in the case of convoy. The third ground for condemnation, as alleged by Denmark, was void of basis of fact. French consuls could legally issue certificates of origin to the date they received orders to discontinue the practice, which was on November 13, 1810. The vessels seized had received them earlier than that date. Even if these certificates were not genuine, that would not change the condition so far as Denmark was concerned. They might have warranted detention by the French and possibly condemnation in a French court, but to Denmark they were unimportant no matter whether they were genuine or false.

Having set forth these general principles, Clay proceeded to state that Wheaton should keep in mind that, after the arrival of George W. Erving, Denmark had changed her attitude, a fact shown by the restraint placed on her privateers and courts. She had, however, not given redress for those already wrongfully condemned, the reason given being that the

king could not reverse the sentences of his courts. We had already made clear to Denmark through Erving, that we were not now asking for a reversion of the sentences of the courts, but for indemnity due as a result of those sentences. The government would have to be responsible for the mistakes made by the courts, because the courts received their instructions from the government. This was especially true in regard to the "convoy cases," which were condemned by authority of a special order.

Clay then related, in some detail, the subsequent negotiations in the affair and closed his instructions by suggesting that a board of commissioners should ascertain the amount due the United States. The method, however, was not vital. To procure indemnity was the real object. If Denmark was financially unable to pay the full sum, we might be willing to accept a compromise.¹⁰

Henry Wheaton was somewhat delayed in presenting these matters to the Danish officials for two reasons. The cases of the *Commerce* and *Hector* were pending between the United States and Russia. One of these cases involved the question of reviewing a sentence pronounced by a prize court. This the Russian government refused to do, but finally consented to pay an indemnity. The point of reviewing a court decree was precisely the one at issue between the United States and Denmark. Therefore Wheaton waited to see what would be the outcome of the Russian case. The fact that Russia had paid an indemnity in a similar case naturally gave added strength to the arguments later presented by Wheaton. Further delay took place because of a royal marriage which for, the time being, completely engrossed the attention of the court.¹¹

In July, 1828, however, Wheaton was able to present the matter to Count Schimmelman. He stated that he had full plenipotentiary power to negotiate and terminate the whole matter. He followed closely the instructions sent him by Henry Clay, and stated that the United States would be very willing to have a joint commission appointed to cover the

¹⁰ *Executive Documents*, 22 Cong., 1 Sess., Vol. VI, Doc. 249, pp. 2-10.

¹¹ *Ibid.*, pp. 10-11.

whole field of spoliation claims, but that, if Denmark preferred a settlement *en bloc*, that method would be satisfactory to the United States. After a great deal of discussion, Wheaton was at last able to report to his government on January 31, 1829, that the king had appointed Count Schimmelman and the Minister of Justice, Count de Steman, as a committee to treat with him on the subject.¹² In the spring of that year a change of administration took place in the United States and the new Secretary of State, Martin van Buren, sent Wheaton a full copy of all the claims against Denmark, under the direction of John Connell, a Philadelphia lawyer who was the special representative of many of the claimants interested in the indemnity.¹³ In August, 1829, a conference was held between the Danish commissioners and our representative in which the whole field of argumentation was gone over again. To close the matter and avoid the consideration of individual cases, Denmark finally made a verbal offer to pay us 500,000 *marcs banco* of Hamburg, and to waive her claims to indemnity for the *Mercator* and the *Hendrick*. This offer was made on the condition that all claims of the United States for captures by Danish cruisers should be forever abandoned. Putting the value of the *marc banco* of Hamburg at thirty-five cents and the two Danish ships at \$65,000, which was approximately what Denmark claimed they were worth, the offer of the commissioners would amount to about \$230,000. This offer was wholly inadequate to cover the claims presented, which, as stated, amounted to \$2,662,280.36. Wheaton so informed the Danish commissioners and after a conference with John Connell made a counter-proposition stating that we would accept 3,000,000 *marcs banco* of Hamburg, and Denmark should renounce her claims for the *Mercator* and the *Hendrick*. If that offer was accepted our indemnity would amount to about \$1,700,000.

In September a second conference was held. On this occasion the Danish commissioners argued that the United States could not support their claims on the mere assertion that they

¹² *Ibid.*, pp. 12-16.

¹³ *Ibid.*, pp. 16, 18.

had sustained losses, because their vessels had been condemned. They must prove that the evidence which was to establish their neutral character was actually produced in court by those to whom they had entrusted the property. It must also be proved that the judges had pronounced arbitrary sentences and acted contrary to the duties of their office. It was to avoid the enormous work of going into details of each case that Denmark had been willing to make a proposition for settlement.¹⁴

This meeting adjourned without making a reply to the new arguments. Later Wheaton showed that, according to the principles of international law as exemplified in specific cases connected with Russia, Prussia, England and the United States, there was no legal way for Denmark to avoid paying the indemnity. Besides if the sentences of the Danish tribunals were to be considered conclusive, it would mean that a belligerent state was invested with legislative power over neutrals. It was clear that the decision of an admiralty tribunal could only be conclusive so far as the individuals were concerned; they could not be binding on foreign nations. He also discussed the three points upon which Denmark based her right to capture and condemn foreign vessels, and dealt with them along the lines laid down in his instructions.¹⁵

When a report of the conferences and the Danish offer was made to the American government, the Secretary of State sent new instructions to Henry Wheaton in January, 1830. Martin Van Buren, under the influence of his chief, Andrew Jackson, expressed regret that Denmark was not more willing to make a settlement. Wheaton was instructed that if nothing could be done to complete a settlement he was to inform the government of Denmark that "the present Executive would not be wanting in all suitable exertions" to make good the declaration that a just indemnity was wanted.¹⁶ In a friendly but firm note the Danish commissioners were informed of the attitude of the American government.¹⁷

¹⁴ *Ibid.*, pp. 19-21.

¹⁵ *Ibid.*, pp. 22-29.

¹⁶ *Ibid.*, pp. 39-40.

¹⁷ *Ibid.*, pp. 40-42.

Without question the Danish authorities realized from this communication, which was dated February 25, 1830, that affairs were approaching a crisis. Denmark's trade with the United States might in a comparatively short time suffer more than the price of a settlement. Something must be done if friendly relations with the United States were to continue. At this point King Frederick VI of Denmark took matters into his own hands and ordered his commissioners on March 23, 1830, to make an offer to Henry Wheaton to settle the case by paying "650,000 Patagons." Upon the condition that Denmark would relinquish her claims for the *Mercator* and *Hendrick* the offer was accepted and embodied in a treaty. This document was signed at Copenhagen on March 28 and later ratified by the Senate of the United States. Ratifications were exchanged in Washington on June 5, 1830.¹⁸

The treaty is very brief, containing only six articles. The first of these provided for the relinquishment of the claims for the *Mercator* and the *Hendrick*, and the payment of \$650,000 by the Danish government to the United States. The second and third described how the money should be paid and distributed. The fourth and fifth articles released Denmark from any further payment of indemnity for spoliation claims. The last article dealt with the manner of the ratification of the treaty.¹⁹

It had been a long and tedious procedure to secure this settlement. The provisions, however, were promptly carried out by the Danish government. In agreement with the terms

¹⁸ J. D. Richardson, *op. cit.*, Vol. II. pp. 481-482. The minutes of the conferences held between Henry Wheaton and the Danish commissioners are found in Danish and French in the Department of Foreign Affairs, Rigsarkivet, Copenhagen. The letter from King Frederick VI is in his own handwriting. *Dept. F. A. Nordamerika I, b, Akter vedrørende Konventionen af 1830, 28 Marts, 1825-1830.* (American dispatches, page 3.)

¹⁹ For a full statement of all the claims, see *House Executive Documents*, 19 Cong., 2 Sess., Vol. IX, Doc. 68: For the diplomatic correspondence connected with the treaty, see also *American Annual Register*, (1831-32), Vol. VII, Appendix, pp. 214-261. For text of the treaty, see W. M. Malloy, *Treaties, etc. 1776-1909*. Vol. I, p. 377; also, *Niles Register*, Vol. XXXVIII, pp. 307-308.

of the treaty a necessary act was passed by Congress. To provide for the distribution of the money among the claimants a commission was appointed by President Jackson. It consisted of George Winchester, Jesse Hoyt, William J. Duane, and Robert Fulton. When its work was completed in March, 1833, the commission made a final report to the Secretary of State.²⁰ At the close of the year 1833 all the money had been paid by Denmark and distributed by the commission.²¹

4. *Proposal of Reciprocity with St. Croix.*

The measure known as the "Tariff of Abominations," passed in 1828, was very detrimental to the trade between the United States and the Danish West Indies. To create a better situation Denmark sent General P. von Scholten as a special envoy to Washington in the fall of 1830 to arrange for a reciprocity treaty, the operation of which should be limited in its scope. General von Scholten, who was Governor-General of the Danish West Indies, reminded the American government that Denmark reserved the whole trade of the islands to herself and the United States. On account of proximity, the islands obtained practically all their supplies from the United States and we in turn imported the raw products of the islands. Denmark felt that it was unfair for the United States to place very high duties on her imports, thus leaving a very small profit for the islands. If this condition continued it would become necessary to levy a duty on goods imported from the United States to the islands, thereby shifting the trade to other countries. To avoid this he proposed an extension of Article VI of the treaty of 1826, which would bring about a state of reciprocity. He suggested the following amendments: (1) only ships under the Danish and the American flags

²⁰ For the text of this report, see J. B. Moore, *International Arbitrations*, Vol. V, pp. 4569-4572.

²¹ *Senate Journal*, 21 Cong., 2 Sess., p. 218; *House Journal*, 21 Cong., 2 Sess., p. 396; *Statutes at Large*, Vol. IV, p. 446. Soon after the treaty was made several insurance companies presented claims to the United States for the *Hendrick* on the plea that according to the treaty Denmark had now released her claim. The committee which had the matter in charge made an unfavorable report. *House Journal*, 21 Cong., 2 Sess., p. 346.

should be allowed to carry on trade in St. Croix; (2) corn and corn meal should enter the island free of duty; (3) other commodities should be arranged in a tariff schedule in such a way that not more than five percent *ad valorem* could be put on necessities of life and not more than ten percent *ad valorem* on luxuries; and (4) in order to keep reciprocity in amount as well as in rate, the islands of St. Thomas and St. John should not be included in the treaty.²²

After due consideration Van Buren informed General von Scholten that we were unable to make such a treaty because of the most favored nations clause which was included in almost all of our treaties. If we should give concessions to Denmark, other nations could immediately claim the same privileges. We hoped that whatever measures Denmark should see fit to carry out, she would always be guided by principles consistent with the existing treaty, and directed by motives in harmony with the present friendly feeling between the two nations.²³

The Danish envoy expressed his regret because of the existing diplomatic situation. He requested, however, that the whole matter be laid before Congress for its consideration. Being assured of this by the Secretary of State, he left the subject in the hands of the Danish *chargé d'affaires*. Steen Bille.²⁴ The president laid the matter before Congress in December 1830.²⁵ It was reported to the House by Mr. Cambreling, of the committee on commerce, in March of 1831. The whole situation was explained in the report together with General von Scholten's proposals. It was shown that the Danish West Indies were virtually a commercial appendage of the United States. On account of the diplomatic difficulties which would arise if the proposals were put into operation, the report, when read, was laid on the table.²⁶ Denmark, how-

²² *Senate Documents*, 21 Cong., 2 Sess., Doc. 21, pp. 2-9.

²³ *Ibid.*, pp. 9-11.

²⁴ *Ibid.*, pp. 11-15.

²⁵ Richardson, *op. cit.*, Vol. II, pp. 531-532.

²⁶ The total imports to the United States from the Danish West Indies for the year ending September 30, 1826 amounted to \$2,067,900. The

ever, did not carry out the threat, made by von Scholten, of laying duties on American goods. On the contrary, she passed a law more liberal than any former one. President Jackson in his message to Congress intimated that she had set a good example in her colonial policy, which it would be well for other nations to follow.²⁷

5. *The Termination of the Jones Claims.*

In March, 1806, Congress had paid \$4000 to Peter Landais, the French captain of the *Alliance* which had captured the *Union*, the *Betsy* and the *Charming Polly* in 1779 and brought them into Bergen.²⁸ It is possible that other claims arising from the Bergen affair were put before Congress prior to 1812; but as many governmental records were destroyed in the burning of the capitol during the War of 1812, no definite record remains of some things that had been transacted. From records extant it appears that Secretary Monroe on December 14, 1812, sent a note to the Danish *chargé d'affaires* at Washington, stating that a report was current that Denmark had decided to pay the claims. If this report were true our government was interested to learn how it would be executed. A few days later an answer was received in which it was stated that Denmark had never recognized the claim "as a fair and legal one and it had for many years already considered it as a superannuated and abandoned affair."²⁹

In January 1820 a claim, which the previous month, had been presented to Congress by James Warren, a lieutenant on

export to the islands for the same period equalled \$1,391,004. In that same year our direct commerce with Denmark equalled \$100,582. in exports and \$49,246. in imports. *Congressional Debates*, 19 Cong., 2 Sess., Vol. III, Appendix a, folder.

²⁷ Richardson, *op. cit.*, Vol. III, pp. 24-25; *Senate Documents*, 23 Cong., 1 Sess., Doc. 1, p. 7. For the correspondence between General P. von Scholten and Martin Van Buren, see *Congressional Debates*, (1830-31), Vol. VII, Appendix, pp. 159-166. For the report in the House of Representatives, see *ibid.*, Vol. VII, pp. 846-847; *Reports of Committees*, 21 Cong., 2 Sess., Doc. 117; *House Journal*, 21 Cong., 2 Sess., pp. 134, 405.

²⁸ *Senate Documents*, 24 Cong., 1 Sess., Vol. III, Doc. 198, p. I; *Report of Committees*, 29 Cong., 1 Sess., Doc. 206, p. 6.

²⁹ *Annals of Congress*, 16 Cong., 1 Sess., Vol. I, pp. 256-258.

board the *Alliance*, was acted upon unfavorably by that body.³⁰ From this time no claim seems to have been presented till December, 1836, when Janette Taylor, a niece of John Paul Jones, who had become his legal heir, presented a memorial, asking for the money due as a result of the Bergen prizes. She called the attention of Congress to the fact that in 1806 relief had been granted to Peter Landais, although at that time he was a disgraced officer incapable of serving in the United States navy, as the result of being court martialed on January 6, 1781. Besides, Jones was his superior in rank. She reminded Congress that it was Jones who had first displayed the flag of the United States on board the *Alfred* before Philadelphia. On board the *Ranger* in Quiberon Bay, February 14, 1778, he had claimed and obtained from Monsieur La Motte Picquet the first salute received from a foreign power. Papers were presented to prove that Jones had taken enough British prisoners to redeem all our prisoners in Great Britain. In spite of repeated requests for relief he had died without receiving the money due him for the Bergen prizes.³¹

At about the same time, several other claims of a similar nature were presented to the government of the United States. William C. Parke claimed a share in the Bergen prizes on behalf of his father Mathew Parke, who had been a captain of marines on board the *Alliance*. Nathaniel Gunnison presented a claim in behalf of his father John G. Gunnison, who had worked on board the same vessel as a carpenter. Still another claim was advanced by Lucy Alexander, who likewise held an interest in the prizes.³² As a result, the president was requested by Congress to present the matter to the government of Denmark.³³ It seems, however, that nothing was done at this time. Consequently the heirs of Jones again called the attention of our government to the claims; and in

³⁰ *Ibid.*, pp. 33, 257, 277.

³¹ For the legal documents connected with the Jones' claim, see *Executive Documents*, 24 Cong., 2 Sess., Vol. I, Doc. 19, pp. 1-29.

³² *Report of Committees*, 24 Cong., 2 Sess., Doc. 297. pp. 1-3; *House Journal*, 25 Cong., 2 Sess., pp. 49, 259-60, 305, 311.

³³ *Senate Journal*, 24 Cong., 2 Sess., pp. 130, 385, 554.

1843 the House of Representatives asked for and obtained from President Tyler the correspondence connected with the affair.³⁴

From the material obtained by the House it appears that an inquiry had been made to discover whether the indemnity of \$650,000 paid by Denmark in 1830 was supposed to cover the Jones claim. John C. Calhoun, who was Secretary of State at the time, had stated that he saw nothing in the treaty to that effect. A letter was also sent to Henry Wheaton, Minister of the United States at Berlin, who had negotiated the treaty with Denmark in 1830, asking for his opinion on the matter. Henry Wheaton's reply is very clear and throws much light on the subject. Dealing with the question whether the long time that had elapsed since the rise of the claims had invalidated them, he stated that, if this case should be given over to a third power for arbitration, the claim would most likely not be held valid, because almost seventy years had passed since it arose. He suggested therefore that, in order not to harm the case, his opinion on this point ought to be kept secret. He felt sure, however, that the claims were not precluded by the indemnity treaty of 1830. Nothing was said in that treaty about the Bergen prizes and it was expressly stated that the \$650,000 were paid for "the seizure and confiscation of American vessels and property by the cruisers of Denmark, or within the Danish territory during the war which commenced between Great Britain and Denmark in 1807 and was terminated by the peace of Kiel in 1814."³⁵

Touching the problem of international law involved in the Bergen prize case he made several comments. When a group of people form a revolution to shake off the government of the "metropolitan country" and to establish an independent nation, other nations may follow various courses while the struggle is still going on. They may remain passive; they

³⁴ J. D. Richardson, *op. cit.*, Vol. IV, p. 320; *Executive Documents*, 28 Cong., 1st Sess., Vol. II, Doc. 264.

³⁵ The wording of Wheaton's statement is faulty according to the text of the treaty. See W. M. Malloy, *Treaties, etc., 1776-1909*, Vol. I, p. 377.

may recognize the revolting portion formally and yet remain neutral in the struggle; and finally, they may form an alliance with one of the parties. With these facts in view, he asked, what attitude ought Denmark to have adopted toward the United States? A neutral state, without any doubt, had the right to forbid belligerent vessels to bring their prizes into her harbors, provided she acted impartially and let her intentions be known. She might even grant the privileges of her harbors to one of the belligerents and refuse it to the other if it had been so "stipulated by treaties existing previous to the war." Denmark, not being an ally of Great Britain, should as a neutral have shown hospitality to the vessels brought in by the Americans, provided she had no previous treaty with England which she was under obligation to observe. Neither could Denmark defend herself on the basis of the right of *postliminii* or reversion of previous condition. This does not exist except between subjects of the same state or between allies. Again, as Denmark was not an ally of Great Britain, she could not take advantage of that international rule.³⁶

Denmark, he added, seemed to rest her case largely on the fact that she had not recognized the independence of the United States. The question, however, was not whether she had acknowledged our independence, but whether such a state of war actually existed between the nations as made it the duty of all nations to respect the rights of both. "Denmark must either have considered the United States as lawful belligerents, or as pirates, incapable of acquiring any of the rights of just war. In the former case, she was bound to perform towards them all the duties of impartial neutrality. In the latter, her conduct, if its motive had been avowed, might have provoked resentment, as an act of hostility, accompanied with insult. In either alternative her interference to disturb the lawful possession of the captors would have justified immediate reprisals; though prudence might have

³⁶ Under *jus postliminii* property captured by an enemy, upon its recapture by a friend, reverts to its owner. See also Monsieur de Vattel, *Law of Nations*, Chitty's edition, Bk. III, ch. 14.

induced the American government to refrain from resorting to this extremity." Wheaton felt however, that allowance should be made for the circumstances under which the affair occurred and for the ideas of the day. Denmark had not yet entered the Armed Neutrality, and a colonial revolt was considered a crime. Besides, England probably brought very powerful pressure to bear on the rather weak Danish state. It was clear from the correspondence connected with the case that Denmark sought to "excuse and palliate" rather than to justify her action.³⁷

Wheaton's letter, sent by the State Department to William W. Irvin, our representative in Copenhagen in 1843, formed the basis of his communication to the Danish foreign office, dated February 10, 1845. More than two years passed before the Danish government replied. Finally, on June 4, 1847, the Danish Minister of Foreign Affairs, Count Reventlow-Criminil, answered Irvin's letter. In this communication every argument that had come up in the whole controversy was dealt with in detail. As Wheaton's letter was a masterly exposition of the American side of the question, so this letter was a close rival stating the Danish side. It is therefore important to give a full review of it.

He expressed surprise because the United States at so late a period should revive a claim which arose during an age when the peace of the world was disturbed with a large number of serious and complicated questions. The first question with which he dealt was that of Denmark's obligations to the two belligerent powers. He informed Irvin that the United States was wrong in stating that Denmark was under no obligation to comply with the demand of the British government for the release of the Bergen prizes. On the contrary she was bound by a treaty of 1660, then in force, to do just what England demanded of her. No one could deny that the colonies were in revolt against England and were carrying on a civil war. As Denmark had not recognized the independence of the United States, the three prizes could not be regarded by her

³⁷ For the text of the letter from Henry Wheaton see *Executive Documents*, 28 Cong., 1 Sess., Vol. II, Doc. 264.

as anything but British property, which according to the treaty mentioned must be restored.³⁸ Under the existing circumstances, therefore, Bernstorff could not have entered into official correspondence with Dr. Franklin without recognizing the independence of the colonies. This, he stated, must have been his reason for not producing the treaty in question. On the other hand, the offer made by M. de Walterstorff was styled a gratuitous donation, and was not to be regarded as an acknowledgment by the Danish government of a wrong committed. On the basis of these arguments he held that the claims of Commodore Paul Jones were without legal foundation.

But, he maintained, there were further reasons why no claim should be made at this time. Not only were the claims in themselves invalid, but they were now both superannuated and prescribed. The United States had only made one very indefinite demand since 1788. That demand, if indeed it might be considered as such, was in a letter from the Secretary of State to the Danish *chargé d'affaires* at Washington, dated December 18, 1812. Mr. Pedersen had replied that Denmark had never recognized the claim as fair and besides that it was now superannuated. No further demands had been presented and the matter was dropped. If the claims were recognized by lack of action to be superannuated then, how much more now thirty-five years later? If the United States had still intended to put forth a claim it should have been presented in 1830 when a treaty was made for the express purpose of putting an end to all existing claims. Reventlow-Criminil closed by saying that he was firmly convinced that the arguments presented would "be sufficient to put an end to the claims forever," and "to remove all subjects of discord . . . between the government of the United States and that of his august sovereign."³⁹

³⁸ The treaty provided that the contracting parties would not harbor the enemies or rebels, the one of the other, nor allow their subjects to do so. In the same way the property of the one, being brought into the realms of the other by enemies or rebels, should forthwith be restored. For the text of Article V, see Appendix C.

³⁹ For full text of the letter from Reventlow-Criminil to W. W. Irvin,

It is of interest to notice how well the arguments of Henry Wheaton and those of Reventlow-Criminil agree on the main points of international law. Both recognized statutes of limitation, although our government in the past had not accepted this principle.⁴⁰ The two men were also agreed in regard to obligations where a treaty existed. They did, however, not agree on the question of the recognition of independence. Wheaton took the stand that Denmark was under obligations to the United States no matter whether or not she had recognized their independence, while Reventlow-Criminil held that on account of the existing treaty Denmark was under obligations to England at least until she had recognized the independence of the colonies. Till that time she would have to treat them as rebels and could not enter into diplomatic relations with them.

It seems quite clear that for two reasons Denmark was under no obligation to pay the Jones claims in 1846. The first of these is intrinsic in the case. When she gave back the Bergen prizes to Great Britain she was performing a duty under a treaty, hence could not be held culpable by a third party. The second reason is found in the principle of prescription, which operated in this case because of the lapse of time. On the basis of this principle the rights of the United States must have terminated, if not earlier, at least in 1830. Denmark, however, committed what might be called a moral wrong by

see *Reports of Committees*, 30 Cong., 1 Sess., Doc. 9, pp. 54-56. The diplomatic dispatches, connected with this affair, located in the Department of Foreign Affairs, Rigsarkivet at Copenhagen are not released for the use of the public.

⁴⁰ Expressing the opinion of a former committee on foreign affairs, Mr. Maclay, chairman of the Committee on Naval Affairs, on February 10, 1846, made the following statement in the House of Representatives in regard to the Jones case. "It is not, as intimated by Mr. Pederson, an abandoned affair, nor is it a superannuated one. Questions of honor and right, as between sovereign states, are not to be summarily disposed of like the debt of an individual, by a statute of limitations. There is no lapse of time which discharges a nation of the right to demand of another nation reparation for a palpable wrong." *Report of Committees*, 29 Cong., 1 Sess., Doc. 206, p. 6.

failing to set forth more fully and convincingly the facts of the treaty of 1660 in the early stages of the negotiation.

It appears that the matter was dropped. The claims of the heirs of Jones and others connected with the Bergen prize affair were, however, still before Congress. To dispose of the whole affair, as well as to honor the name of the great revolutionary commodore, Congress passed an act on March 21, 1848, for the relief of all concerned. Thus ended the history of the Bergen prize case and of the Jones' claims—the first and also the longest drawn out controversy between the United States and Denmark.⁴¹

⁴¹ For the documents in full connected with the Jones' claims, see *ibid.*, pp. 1-29; *House Journal*, 30 Cong., 1 Sess., pp. 429-432, 626; *Senate Journal*, 30 Cong., 1 Sess., p. 229; *Report of Committees*, 30 Cong., 1 Sess., Vol. I, Doc. 9; *Senate Reports*, 33 Cong., 1 Sess., Vol. I, Doc. 180; *Senate Executive Documents*, 37 Cong., 2 Sess., Vol. IV, Doc. 1; *Status at Large*, Vol. IX, p. 214.

CHAPTER IV

THE ABOLITION OF SOUND DUES AND OTHER PROBLEMS, 1841-1860

1. *Abolition of the Sound Dues.*

The Baltic Sea would be a *mare clausum* if it were not for the three narrow straits, which, by their continuation through the Cattegat and the Skagerak, connect it with the North Sea and the Atlantic Ocean. The Little Belt between Jutland and the island of Fyn (Fuenen) is too shallow to be of much use to navigation. The Great Belt between Fyn and Sjælland (Zealand) does not run in a favorable direction for ships bound for the eastern Baltic ports. Consequently the Oresund, or, as it is known in the English tongue, the Sound, between Zealand and Sweden has always been the main entrance to the Baltic. From time immemorial the dues collected for the privilege of passing through the Sound or Belts had constituted a rich source of Danish revenue.

To understand why a difference should arise between the United States and Denmark in regard to the collection of the Sound Dues it is of importance to know approximately when and how these dues originated. Because of their early origin they were intrically interwoven with the political and economic systems, not only of Denmark, but of Europe. On account of their age Denmark insisted on her right to collect the dues, the right being a part of the law of nations; while on the very same ground the United States insisted on her right of exemption from paying the dues, as she had never been the beneficiary of the acts and movements through which the dues had originated.

Students during the last fifty years have set forth the theory that the Sound Dues originated between the years 1423 and 1429. Their contention is based on a statement in the "Lübecker Tage" of July, 1423, where it is reported that the

king at Copenhagen levied a toll on the ships in the Sound.¹ Their conclusion is somewhat strengthened by the fact that no records exist in the Danish archives dated before the year 1497. From that date till 1660, actual records are extant of the number of ships that passed the Sound, their nationality, and the amount of dues collected, for one hundred and ten years *passim* out of the one hundred and sixty three.²

It appears, however that the date 1423 is not, after all, the year of the origin of the Sound Dues. The Danish historian, Baden, has advanced the theory that the early Danish kings had complete control over the Sound and Belts. They felt it to be their duty to keep them cleared of pirates. When strangers wanted to sail through, either for the sake of war, for trade, or for obtaining herrings in the Sound, they had to secure permission of the Danish king. This could only be obtained through the payment of money. Thus the dues originated because the king rendered a service.³ This theory, although plausible, would not be of much value *per se*. Documents, however, are extant which show the existence of the dues earlier than 1423. On April 4, 1436, the City of Danzig sent an inquiry to the City of Lübeck asking what was their understanding in regard to the status of the Sound Dues, since the peace with King Erick.⁴ Lübeck answered on April 21, 1436, that according to the treaty between them and the King of Denmark (Erick of Pomerania) they were to enjoy all the old privileges, and as freedom from the payment of Sound Dues was one of those privileges they did not intend to pay the dues.⁵ It seems clear, while not conclusive, that

¹ This is the conclusion of the Danish historian, J. A. Fredericia, in his article, "Fra hvilken Tid skriver Sundtolden sig?" *Historisk Tidsskrift*, 4de Række, Bind 5 (1875-1877), pp. 1-20. The same opinion is held by the German historian, Dietrich Schäfer, in his article, "Zur Frage nach der Einführung des Sundzolls," *Hansische Geschichtsblätter* 1875, pp. 31-43. For the basis of their statement see Appendix D.

² These records have been published by Nina Ellinger Bang, *Tabeller over Skibsfart og Varetransport gennem Øresund, 1479-1660*.

³ Gustav L. Baden, *Afhandlinger i Fædrelandets Historie*, Vol. II, pp. 221-260.

⁴ *Hanserecesses*, Abth. II, Vol. I, pp. 485-486.

⁵ *Ibid.*, pp. 486-487.

the dues according to this statement must antedate the year 1423, or the term "old privileges" must have a peculiar meaning in this place.

On February 6, 1386, a treaty was made between Denmark and certain Prussian towns in which the latter were promised free navigation of the Sound, providing they would not station ships of war there, but trust to the Danish king to keep it clear.⁶ In 1328 King Christopher II granted exemption from toll in the Great Belt to the monastery of Sorö. It is self-evident that dues must have been charged in the Sound as early as they were in the Belts, otherwise there would have been no traffic in the Belts at all. Hence we may infer that the Sound Dues date back at least to 1328.⁷

From time to time Denmark's right to collect the Sound Dues was recognized by treaty. It is not necessary to give here a history of the treaties dealing with this subject. It will suffice to state that the rate of dues was based on a schedule incorporated in the treaty of Christianople in 1645, between Denmark and Holland. Certain obscure portions in this schedule were explained in a supplementary treaty with the Dutch in 1701. Upon this basis dues were collected till 1841, when a treaty was made between England and Denmark establishing a new schedule. This treaty, with a few changes established in an amendatory treaty of 1846, remained the basis until the dues were abolished in 1857.⁸

The Sound Dues were not collected with equal regularity

⁶ *Regesta Diplomatica Historiæ*, p. 426. For the text of the agreement, see *Hanserecesse*, Abth. I, Vol. II, pp. 372-373.

⁷ J. F. W. Schlegel, *Danmarks og Hertugdømmernes Statsret*, Chapter VII. Macgregor states: "The most ancient charter extant, referring to toll payable in the Sound and Belts, is that granted by Erick Menved in 1319 to the Town of Harderwieck in Holland stipulating the rate of duty to be paid by Dutch ships at Nyborg, upon the conveyance through the Belts of cloth destined for sale." John Macgregor, *Commercial Statistics*, Vol. I. p. 165, Note. I have been unable to find any other reference to this document.

⁸ M. Thomas Antoine de Marien, *Tableau des Droits et Usages de Commerce Relatifs au Passage du Sund*; F. Hessenland, *On Sound-Dues*; H. Scherer, *Der Sundzoll*. These works give a good resume of the subject.

and for the same purpose at all times. By a royal decree of 1532 King Christain III ordered dues to be collected,⁹ an unnecessary order if they were being collected. In 1633 Christian IV caused special dues to be levied so that a better harbor might be built at Elsinore where the ships had to lay in to pay the dues.¹⁰ In 1692 the dues were farmed out for the sum of 160,000 rixdollars, which sum must have been too large, as Eduart Krusse, the farmer of the revenue, complained he could not pay it.¹¹ This condition was probably the cause of a royal decree which ordered dues to be collected from Danish vessels as well as foreign.¹² The fact noted above that we have records for only one hundred and ten years between 1497 and 1660 may perhaps be explained on the same basis. During the seventeenth century much dissatisfaction arose on account of these irregularities.¹³ When, however, the dues of every nation were put on the basis of the Dutch treaties of 1645 and 1701, the dissatisfaction disappeared. At least, complaints appeared to cease during the eighteenth century.

The country that paid the greatest part of the Sound Dues was naturally Great Britain. As stated, she had secured considerable reduction by the treaties of 1841 and 1846. Because of the most favored nations clause incorporated in nearly every treaty, practically every country was benefited by the Anglo-Danish treaties. So far every nation acquiesced, legally at least, in their existence.

The first nation that refused to pay the dues was the United States. The first popular discontent was expressed in the *Boston Monthly Magazine* of January, 1826. Here Caleb Cushing argued that it was not in harmony with our dignity to pay tribute to any nation, especially where no *quid pro quo* was received. Whether Denmark could justly claim the dues

⁹ For the text of the decree, see C. F. Wegner, *Rigsarkivets Aarsberetninger*, Vol. III, p. 30.

¹⁰ For the text of the decree, see Appendix E.

¹¹ "Diary of King Christian V." March 30, 1692. C. F. Wegener, *Geheimerarkivets Aarsberetninger*, Vol. VI. p. 287.

¹² *Ibid.*, p. 274.

¹³ *Ibid.*, Vol. III, pp. 97-98 Vol. VI, p. 315.

in the past was of little importance to us as there was now no adequate reason why we should pay them.¹⁴

In May 1841, Daniel Webster, the Secretary of State, called the attention of the President to the fact that even though we had comparatively little direct commerce with Denmark, yet we paid a yearly sum of about \$100,000 in Sound Dues. Besides this, we paid port dues even though we did not enter Danish ports except to pay the Sound Dues. He recommended that our minister to Denmark enter into communication with the Danish government to have this condition changed.¹⁵

When in 1844 Calhoun became Secretary of State, he wrote to Wm. W. Irvin for all the information he could get in regard to the navigation in the Sound, but requested that the matter be kept secret. Irvin sent this information and suggested that, if the United States intended to terminate the treaty of 1826 in order to bring the Sound Dues question to a head, she had better not wait too long "as the wheels grind slow in Denmark."¹⁶ It appears that nothing further was done at this time. In 1848 the new minister, Robert P. Flenniken, in a conversation with the Danish Minister of Foreign Affairs broached the question of the abolition of the dues. The Danish minister, according to Flenniken, acknowledged that the dues were unfair and that he could not defend the principle upon which they were being collected. A little later the American Secretary of State, James Buchanan, in a letter to Flenniken expressed his satisfaction with the acknowledgment of the Danish minister. He suggested that, as the reciprocity in navigation arranged for in the treaty of 1826 was altogether one-sided in favor of Denmark, it was fair that Denmark should abolish the Sound Dues on our vessels to even up matters. Buchanan even suggested that Flenniken

¹⁴ The article is reprinted from the *Boston Monthly Magazine* in the *North American Review*, April, 1826, Vol. XXII, pp. 456-459.

¹⁵ *Executive Documents and Reports of Committees*, 27 Cong., 1 Sess., Doc. 1, pp. 26-28.

¹⁶ "Letters of John C. Calhoun" *Annual Report of the American Historical Association*, 1899, Vol. II, pp. 590-591; *Executive Documents*, 33 Cong., 1 Sess., Doc. 108, pp. 28-30.

might offer Denmark \$250,000 if such an arrangement could be made permanent.¹⁷

At the time that Flenniken laid Buchanan's offer before Count A. V. Moltke, the Danish Minister of Foreign Affairs, Denmark was engaged in the Three Years' War. Count Moltke asked our minister to put his request and offer in written form; which he did. The reasoning followed in this communication includes several points. It was pointed out that, according to the treaty of 1826, America was not allowed to enter all Danish ports, while Denmark was free to enter all of ours. Other nations paid Sound Dues for services Denmark had rendered to them in the past. Since we had never received any of those benefits we ought not to pay the dues. The Baltic being a free sea, the entrance to it ought to be free; this was in accordance with the best authorities on international law. The very fact that Denmark had to make treaties in regard to the Sound Dues, was a proof that they were not sanctioned by the law of nations. Before closing his communication he made it clear to the Danish government that if Denmark was unwilling to make a change the United States intended to terminate the treaty of 1826.¹⁸

It was quite clear, however, that while Denmark continued at war with Germany nothing definite could be accomplished. Besides, the Danish government had borrowed money in England and her creditors had obtained a pledge that the Sound Dues should be kept sacred for the payment of interest on the loan. Added to this was the fact that Russia was favorable to Denmark and used Elsinore as a projected naval police station. It is evident, therefore, that those two countries would back Denmark in upholding the payment of the dues.¹⁹

At the close of the Three Years' War, Robert P. Flenniken, who had become well acquainted with the facts pertaining to the Sound Dues, was no longer our representative in Denmark. Two other men followed in quick succession.²⁰ In 1854

¹⁷ *Ibid.*, pp. 38-42.

¹⁸ *Ibid.*, pp. 42-49.

¹⁹ *Ibid.*, pp. 49-51.

²⁰ See Appendix I.

Henry Bedinger was appointed to the post at Copenhagen. At this time William L. Marcy was Secretary of State under President Pierce. Marcy instructed Henry Bedinger to bring the subject to the attention of the Danish government, as it must be settled. He showed to our representative that it was to England's advantage to keep up the Sound Dues because the duty on raw products was higher than on manufactured goods; thus she gained by importing raw products into England and making it into manufactured goods which were shipped to Baltic ports. Bedinger was further informed that the United States would not be willing to make any payments or give any commercial privileges in lieu of the abolition of the dues.²¹

Henry Bedinger broached the matter to the Danish foreign office, but was informed that Denmark could not abolish the dues without remuneration. Later the Danish Minister of Foreign Affairs expressed the hope that the United States would not press the matter just at that time (April, 1854) because of the political situation in Europe. Some day, so he thought, there might be a possibility that Denmark, for a compensation, would abandon the dues altogether. Being reminded that the United States government was unwilling to give any compensation, he stated that he had strong reasons to believe she would.²²

In spite of the request not to urge the matter while the Crimean War was in progress, Marcy endeavored to bring the matter to a speedy conclusion. Denmark was informed that the American government had decided to terminate the treaty of 1826.²³ In answer to this notification, the Danish government through Torben Bille, its representative at Washington, communicated to Secretary Marcy its views in regard to its right to collect the Sound Dues. The United States had claimed that the dues were not sanctioned by the law of nations, but were based on special conventions made between Denmark and

²¹ *Executive Documents*, 33 Cong., 1 Sess., Doc. 108, pp. 54-58.

²² *Ibid.*, pp. 59-61.

²³ *Executive Documents*, 34 Cong., 1 Sess., Vol. I, Doc. 1, p. 25.

the various powers. It was this point that Torben Bille especially sought to refute.

The Sound Dues, he claimed, were based on the law of nations by immemorial prescription. The right to collect them had existed long before any treaties were made regulating the rate. If the right were based on treaties, it would mean that the various strong powers in Europe had voluntarily made a grant to Denmark. This was contrary to historical facts. Neither was it reasonable to suppose that Denmark was able to force her will upon the strong and powerful European states. In that case they would certainly never have incorporated them voluntarily in their treaties with Denmark. While the origin of the Sound Dues was shrouded in the uncertainty of antiquity, yet it was clear that when international affairs began to be regulated by definite rules, the right to collect the dues was so well established, that without protest it was incorporated in treaties. Although the Danish government would be willing to admit that, according to the present interpretation of international law, the imposition of similar duties now, for the first time, could not be sanctioned, yet she would not admit that this should be a criterion by which to judge rights that had been in existence since time immemorial. He further pointed out that the treaty of Vienna recognized the Sound Dues in the settlement of European affairs, at a time when similar arrangements were being remodeled. Under these circumstances, the abrogation of the treaty of 1826 would not affect a right which existed independently of the treaty. It would only leave the United States shorn of the rights and benefits which she enjoyed as a result of the treaty. Because of the existence of other treaties, it would be impossible to exempt the United States from the payment of the duties on their commerce, as every other nation would claim the same advantage.²⁴

Marcy did not even deem it worth while to answer Bille's letter, but replied to the Danish government by instructing Henry Bedinger to request, in a final appeal, that American commerce be relieved of the burden. If this should prove

²⁴ For text of the letter, see *ibid.*, pp. 25-28.

unsuccessful, he was instructed to inform the Danish government that the treaty of 1826 was abrogated and to request acknowledgment of the fact from the Danish foreign office. Bedinger carried out his instructions.²⁵

It may be of interest at this point to learn what was the general attitude of the leading powers towards the Sound Dues situation. Of the German states, Prussia was very much opposed to the dues. The question was discussed in the *Landtag* by von Sanger who was backed by that body in his opposition. Unfavorable articles appeared in the papers of Köln and Hamburg, and a letter from Hamburg, containing the same sentiment, appeared in the *New York Tribune*.²⁶ A vigorous pamphlet was published in Stettin in German, English, and French condemning the dues as unjust and contrary to international law.²⁷

In England, on the other hand, the sentiment in general does not appear to have been much opposed to the dues. We have found only one unfavorable expression, before the matter was taken up in Parliament. It runs as follows: "When the ten year treaty between Great Britain and Denmark made in 1841 comes to a close, some means ought to be found for the perpetual redemption of the Sound Dues."²⁸ In 1856 Palmerston expressed his opinion to Count Persigny and Count Walewski, the French and the Russian Ministers at London, as being against the abrogation of the dues.²⁹ Similar opinions were offered at this time in Parliament. Bramley-Moore, sitting for Malden, felt that to abrogate the dues by a money payment was to use public money for the benefit of a few traders. Besides, it would be unfair because the Sound Dues had been hypothecated in London for a loan to

²⁵ *Ibid.*, pp. 28-32.

²⁶ *De Bow's Review*, (1855), Vol. XVIII, pp. 760-763; *Executive Documents*, 33 Cong., 1 Sess., Doc. 108, pp. 26-28, 31-32; *New York Tribune*, September 2, 1856.

²⁷ F. Hessenland, *Le Droit du Sund*, *passim*.

²⁸ *Edinburgh Review*, (1845), Vol. LXXXII, p. 212.

²⁹ "Afløsning af Sund og Belttolden," *Historisk Tidsskrift*, 1858-1859, 3dje Række, Vol. I, pp. 486-488.

Denmark.³⁰ In spite of these voices, however, England finally took a stand in favor of capitalization, as we shall see later.

In February, 1854, Henry Bedinger wrote to Secretary Marcy that Russia was backing Denmark "by requiring her ports to refuse to receive the cargo of any vessel which has not paid the dues."³¹ According to a statement made by General D'Oxholm, the Danish representative at the court of St. James, to James Buchanan, our ambassador at the same court, Bedinger's report was hardly correct, as it was not through an act of the central government, but by municipal regulations that the ports had acted.³² Russia, however, had made it clear to the Danish government that she would stand by Denmark in her demands.³³

The question naturally arises, why was Russia in favor of letting Denmark continue to collect the Sound Dues? There certainly were economic reasons why she should be in favor of their abolition. It seems very probable that her attitude was based on dynastic grounds. During the fifties it was evident that King Frederick VII would not leave any legal heirs. This caused the rise of the very unfortunate Danish succession problem. There were three sets of pretenders to Denmark and Schleswig-Holstein. The nearest heir to the Danish throne was Princess Louisa, of the House of Oldenburg, who was married to Duke Christian of Glücksburg, a gentleman who himself had a close claim to the duchies and a remote claim to Denmark. While Louisa could inherit Denmark and Schleswig the *Lex regia* was against her in Holstein, as it did not recognize female succession. The second pretender really had no true claim, as his father had sold his right for 3,000,000 rixdollars which had been paid by Denmark. This claimant, of the House of Augustenburg, held that, as he was of age when his father sold the claim, his right

³⁰ *Hansard's Parliamentary Debates*, Vol. CXLIV, pp. 2400-2404.

³¹ *Executive Documents*, 33 Cong., 1 Sess., Doc. 108, p. 60.

³² Buchanan to Marcy, April 20, 1855. J. B. Moore, *Works of James Buchanan*, Vol. IX, pp. 345-346.

³³ Letter from Berlin, dated September 15, 1855, *New York Tribune*, October 5, 1855.

was not included.³⁴ The third pretender was Czar Nicholas I of Russia, a descendent of Czarina Catharina II, who belonged to the House of Gottorp in Holstein. In order to secure a legal title to the Baltic provinces which Peter the Great had secured for Russia in the treaty of Nystad, she had made a treaty with Denmark on April 22, 1767 in which that country gave up all her claims to the provinces while Catharina II renounced her right to the duchy of Schleswig.³⁵ While this treaty had referred only to Schleswig, there was a historic indissoluble union between the duchies. It was further understood that whoever ruled in Schleswig would also rule in Denmark, so that the three territories were tied together in a personal union.³⁶ When the question of succession arose in Denmark Czar Nicholas began to hope that he might revive his claim, and thus secure for himself or some member of the Romanoff family the three Danish realms. It was his good fortune that he was able to make a treaty with Denmark on June 5, 1851, in which the provisions of 1767 in regard to the succession were changed in his favor.³⁷ With such prospects before him he would not want Denmark to give up anything that might become very valuable to him in the future. While the Protocol of London, 1852, settled the succession on Christian of Glücksburg, "Russia . . . never lost the possibility of the succession out of view."³⁸ When it became clear that the Sound Dues must be abolished, Russia became the leader in protecting the rights of Denmark.

Even in the United States, where the movement for the final abolition took form, all were not in favor of the attitude of the State Department. Thomas H. Benton in the Senate held that we should not do anything to abrogate the

³⁴ G. Fr. de Martens, *Recueil*, Vol. XVII, Pt. II, p. 332; Joh. Steenstrup, *op. cit.*, Vol. VI, Pt. I, p. 341; *Camb. Mod. Hist.*, Vol. XI, p. 226.

³⁵ *Danske Tractater, 1751-1800*, p. 232.

³⁶ *Camb. Mod. Hist.*, Vol. XI, p. 224; Joh. Steenstrup, *op. cit.*, Vol. VI, Pt. I, *passim*.

³⁷ *Danske Tractater, 1800-1863*, pp. 220-223.

³⁸ *Camb. Mod. Hist.*, Vol. XI, p. 224; See also letter from Karl Marx from London in *New York Tribune*, May 6, 1853.

Sound Dues, but that we should by friendly negotiations always be sure that we were treated on an equality with the most favored nations. Having given the exact figures for the year 1850, he showed that our commerce in the Sound compared with that of Europe at the ratio of one to two hundred. "These figures show the small comparative interest of the United States in the reduction, or abolition of the dues—large enough to make the United States desirous of reduction or abolition—entirely too small to induce her to become the champion of Europe against Denmark; and, taken in connection with our geographical position, and our policy to avoid European entanglements, should be sufficient to stamp as Quixotic, and to qualify as mad, any such attempt."³⁹

One of the members of the House, Hugh F. McDermott, published a series of articles in the *New York Times* from June 1 to November 6, 1855. These were later published in pamphlet form. The letters argued that we should not disturb the Sound Dues as such action would be injurious to Denmark, a friendly nation, and would not benefit the United States. The Sound Dues were a part of the Baltic tariffs. All the dues paid by the Prussian cities were refunded by the Prussian government to encourage eastern trade, hence our action would be a great aid to the Prussian treasury. It might be argued that we would be benefited by lower prices on Baltic products shipped to America. As a matter of fact this would not be so as all the Baltic countries levied an export duty as high as the trade would bear. The removal of the Sound Dues would give them a chance to raise the export duties and we would have gained nothing. He also showed that according to international law Denmark had a well established right to collect the dues. "To suppose that Denmark would quietly submit to having its ancient right treated as a wrong, merely because the Cabinet at Washington declares it to be such—would be an insult to that small but respectable nation."⁴⁰

³⁹ Thomas H. Benton, *Thirty Years View*, Vol. II, p. 365.

⁴⁰ Hugh F. McDermott, *Letters on the Sound-Dues-Question*, by Pax, *passim*.

Perhaps a more significant statement in regard to this subject was made by Secretary Upshur, when in 1843 he suggested that Denmark "renders no service in consideration of that tax and has not even such right as the power to enforce it would give."⁴¹

When Denmark was informed by Henry Bedinger that we had decided to terminate the treaty of 1826, she realized that she would have to take definite action. In October, 1855, she sent a circular note to the powers inviting them to send delegates to a congress to meet in Copenhagen the following month, for the purpose of discussing the problem of the Sound Dues. The note stated that the time was unfavorable for a settlement of the question, but on account of the action taken by the United States, it was necessary for the powers to come to some agreement on the subject. Denmark wished to submit a proposition the plan of which she hoped would be favored by the various nations interested, and especially by the United States.⁴²

Bedinger wrote to Marcy for instruction in the matter. Marcy put the matter before the President and it was decided—and Bedinger so informed—not to take part in the proposed congress for the following reasons: First, based on the hypothesis that Denmark had the right to collect the Sound Dues, the congress would assemble to arrange for their capitalization. The United States were unwilling to take part in such an arrangement, because they denied the basic hypothesis. Second, the American government wished to vindicate the principle that the sea was free to all. If Denmark could collect dues at the Sound, so could others at Gibraltar, Messina, the Dardanelles, and other places. Third, the United States did not wish to become a party to the settlement of the balance of power in Europe. The government understood from the invitation that the Sound Dues would be discussed from that angle. Finally, the question would not be "considered as one of commerce or money, but as a political one. This would be in accordance with

⁴¹ F. Hessenland, *Le Droit du Sund*, p. 5.

⁴² *Executive Documents*, 34 Cong., 1 Sess., Vol. I, Doc. 1, pp. 33-38; *New York Tribune*, November 16, 1855.

the history of the Sound Dues, and with the part which they have performed in the politics of the north of Europe." The American government insisted that our international rights should not be restricted by or sacrificed to European expediency. The United States, however, would not be unwilling to pay her share of the expenses in the upkeep of lights, improvements and protection of the Sounds and, in fact, would be very liberal in compensating Denmark for such outlays. America would, on the other hand, absolutely refuse to pay anything for the use of the free waters of the Sound.⁴³

Although the United States refused to take part, the proposed congress met in Copenhagen.⁴⁴ Because of the short time which had been given to prepare for the sending of delegates, the congress did not meet, as originally intended, in November 1855. The first session was held on January 4, 1856. It was called to order by Count Bluhme, formerly Minister of Foreign Affairs but now Director of the Bureau of Sound Dues. He was assisted by Count Sponneck, Director-General of Tariff. Representatives were present from Austria, Belgium, France, Great Britain, Holland, Oldenburg, Prussia, Russia, Spain and Sweden. It was shown in this session that the dues naturally fell into two classes: first, those levied on merchandise according to the tariff schedules of 1841 and 1846; second, those levied on shipping. The second class was again divided into "light dues" and "expedition dues." The first of these were used for the upkeep of lighthouses and buoys, the second to defray the expenses of the custom-house. The Danish government did not claim any compensation for the "expedition dues," as the custom-house would not be needed if the dues were abolished.

The Danish commissioner placed before the conference tables compiled from the books of the custom-house, showing

⁴³ *Executive Documents*, 34 Cong., 1 Sess., Vol. I, Doc. pp. 38-41.

⁴⁴ For the report of the British Ambassador, Andrew Buchanan to his government, see G. Fr. de Martens, *op. cit.*, Vol. XVI, Pt. II, pp 331-337. For the Danish report, see "Afløsning af Sund og Belttolden," *Historisk Tidsskrift*, 1858-1859, 3dje Række, Vol. I, pp. 455-559.

that according to the income from the dues in the years 1851, 1852, 1853, Denmark should receive 60,913,225 rixdollars, basing the redemption "at 4 per cent, or 25 years' purchase." When some of the delegates ventured to state that this amount was exorbitant, the commissioners explained that, in putting those figures before the conference, they were not making a proposal but merely stating facts, which might be used as a basis of negotiation.

The next meeting of the conference was held on February 2, 1856. On this occasion Count Bluhme presented figures to show that the average annual receipts on merchandise during the years 1842 to 1847 and 1851 to 1853, inclusive, amounted to 2,098,561 rixdollars. The years 1848 to 1850 were omitted as the figures for those years were inaccurate on account of the war with Prussia. The amounts collected annually during those same years on shipping as "light dues" averaged 150,018 rixdollars. This sum if redeemed at 4 per cent, or 25 years' purchase, would amount to 56,214,475 rixdollars. The Danish government, having given the question careful consideration, had authorized its representative to state that it would be willing to accept the sum of 35,000,000 rixdollars as a compensation for the total abolition of the Sound Dues.

The quota to be paid by each nation was worked out in the following manner. The amount of dues collected from each nation on its ships passing the Sound for Baltic ports, during the years mentioned in Bluhme's reports, was averaged with the amount collected from the same nation on ships going in the opposite direction. The annual sum was then multiplied by twenty-five. This as stated above equaled 56,214,475 rixdollars. As Denmark offered to settle for 35,000,000 rixdollars the amount to be paid would be equal to 62.27 per cent of the original sum demanded. The following table is worked out from the final treaty, Buchanan's report, and the Danish government's report.

PAYMENTS BY THE LEADING NATIONS FOR THE ABOLITION OF THE
SOUND DUES

Nations	Average annual amounts of dues	Capitalized at 25 years' purchase	Final capital- ization for each nation, which it paid	Per cent of the whole 35,000,000
Austria	1,890	47,262	29,434	0.09
Belgium	19,367	484,175	301,455	0.86
Bremen	14,043	351,075	218,585	0.62
France	78,315	1,957,875	1,219,003	3.48
Great Britain.....	650,601	16,265,025	10,126,855	28.93
Hamburg	6,875	171,875	107,012	0.31
Hanover	7,927	198,175	123,387	0.35
Holland	90,461	2,261,525	1,408,060	4.02
Lübeck	6,617	165,425	102,996	0.29
Mecklenburg	24,006	600,150	373,663	1.07
Norway	42,866	1,071,650	667,225	1.91
Oldenburg	1,807	45,175	28,127	0.08
Prussia	285,250	7,131,250	4,440,027	12.62
Russia	625,747	15,643,675	9,739,993	27.83
Sweden	102,182	2,554,550	1,590,503	4.55
Nations which did not take part in the congress but later paid their share				
The Baltic in General..	14,899	372,475	231,909	0.66
Spain	65,531	1,638,275	1,020,016	2.91
United States	46,105	1,152,628	717,829	2.05
Denmark's own share..	72,088	1,802,200	1,122,078	3.21

This amounted to almost 96 per cent of the whole. The rest was paid by smaller nations, but it appears that no reports were published of what each of these paid.

Russia, Oldenburg and Sweden were the first to notify Denmark of their intention to accept their quotas as a fair and equitable settlement. Their representatives signed an agreement recording their acceptance, subject to the condition that the same terms should be accepted by the other powers.

Two new problems now appeared. The question arose "whether the transit dues on routes between the North-Sea or the Elbe and the Baltic ought not to be reduced or abolished simultaneously with the Sound dues," as these were also under the control of Denmark. The other prob-

lem arose in England where the government was of the opinion that Parliament would object to pay money out of the treasury to relieve burdens of a special trade.⁴⁵ After further consideration England expressed her willingness to pay a stipulated sum once for all, provided Denmark in the future would abolish all dues for the upkeep of the sound and reduce the transit dues in the duchies. Denmark agreed to this.

While the negotiations were going on between Great Britain and Denmark during the summer of 1856, Prussia and France agreed that so important a question as that of opening the Baltic to the world ought not to be handled by separate treaties but should be embodied in a general treaty to be signed by Denmark and the majority of the nations interested. As England showed herself in harmony with this idea, a draft of a treaty was prepared. Before presenting this to Denmark a conference of the delegates was held and the draft submitted to discussion. At this conference representatives from Hanover, Mecklenburg and the Hansa Towns, besides those of states formerly mentioned, were present. The treaty was then presented to the Danish government on February 3, 1857. After making a few changes, suggested by Denmark, the treaty was signed by the members of the congress on March 14, 1857.⁴⁶

The treaty consists of eight articles. The first article contains the agreement on the part of Denmark to cease collecting Sound and Belt Dues of any kind, but the Danish government retains the right to make suitable arrangements with powers that have not taken part in the present convention. In Article II, Denmark promises to keep up the light-houses, buoys and other improvements for facilitating the navigation in the Sounds, the Belts, and the Cattagat. Foreign vessels shall not be forced to use Danish pilots in those waters, but in case they desire to use

⁴⁵ *Hansard's Parliamentary Debates*, Vol. CXLI, pp. 180-181; *Ibid.*, Vol. CXLIV, pp. 2400-2404; *New York Tribune*, August 12, 1856. For an explanation of the money used, see Appendix F.

⁴⁶ For full text of the treaty, see Martens, *op. cit.*, Vol. XVI, Pt. II, pp. 345-358.

them, the fees shall be the same as those paid by Danish vessels. The transit dues between the North Sea and the Baltic shall be limited to 16 skilling, Danish currency, for each 500 pounds, Danish weight. According to Article III, the treaty was to take effect April 1, 1857. Under Article IV, the contracting parties agreed to pay to Denmark the sum of 30,476,325 rixdollars, each party being responsible for its own share.⁴⁷ Article V provided that the specified amounts should be paid in forty semi-annual payments. Article VI authorized Denmark to make a special treaty with each nation for the mode of payment, the rate of exchange, and the place of payment. According to Article VII, the treaty is subject to ratification in accordance with the rules and formalities established in the various states of the contracting parties. By Article VIII, the exchange of ratifications should take place at Copenhagen April 1, 1857, or as soon as possible after that date.

In accordance with this treaty, Denmark made treaties with the various nations interested in the navigation of the Sound.⁴⁸ It is evident from the amount received by the Danish government that she was paid not only for the upkeep of improvement in the Sound and Belts, but also for the surrender of her right to collect dues. The dues paid for lights, buoys, etc., known as *droits de fanal*, constituted less than six per cent of the annual amounts paid.⁴⁹ Denmark has used the money she received from the various powers to establish a fund, the proceeds of which is used for the upkeep of improvements in the Sound and Belts. This made the powers more willing to pay as they did not and could not expect a small nation at her own expense to keep the straits improved for the benefit of the wealthy commercial interests of other countries. At the same time it was a wise act for Denmark to remove the problem entirely by accepting a cash

⁴⁷ For the share of each of the contracting parties, see the table given above.

⁴⁸ For the text of these treaties, see Martens, *op. cit.*, Vol. XVI, Pt. I and Vol. XVII, Pt. II, *passim*.

⁴⁹ Martens, *op. cit.*, Vol. XVI, Pt. II, p. 344.

payment. Sooner or later she might have lost the Sound Dues without any reimbursement.⁵⁰

When it became evident that the European powers were willing to pay large sums to Denmark to abolish the Sound Dues, the United States decided to pay her share. On April 15, 1857, a treaty was concluded between Lewis Cass, Secretary of State under James Buchanan, and Torben Bille, the Danish representative at Washington. We do not know the nature of the negotiations that preceded this treaty, as this diplomatic correspondence has not been published. Marcy, as stated above, had declared that the United States would not pay any money to Denmark for ceasing to collect the dues. Perhaps the fact that a new man was at the head of our foreign affairs made it easier for Torben Bille to negotiate the treaty.

The treaty is very short, and agrees in general with the treaty of March 14, 1857, between Denmark and the powers represented at the Copenhagen congress. It contains the following points: Article I: the abolition of Sound Dues on American vessels was recognized by the Danish government; Article II: Denmark agreed to keep up the improvements of the Sound and Belts as in the past, and if the increasing traffic in the Sound should require additional improvements, Denmark agreed to make them without cost to the United States; Article III: the United States agreed to pay \$393,011 or 717,829 rixdollars, to Denmark on the day when the convention went into effect; Article IV: the United States was restored to her status of most favored nation; Article V: the treaty of 1826, which was abrogated by the United States on April 15, 1856, became binding again between the two nations, Article V dealing with the Sound Dues excepted; Article VI: the convention should take effect as soon as possible but not later than twelve months from the date of signing; and Article VII: exchange of ratification should take place in Washington within ten months.⁵¹

⁵⁰ John Steenstrup, *op. cit.*, Vol. VI, Pt. II, pp. 183-184.

⁵¹ For text of the treaty, see W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 383; *Senate Documents*, 35 Cong., 1 Sess., Vol. VII, Doc. 28.

The treaty was proclaimed in effect by the President of the United States on January 13, 1858.⁵² The original amount and interest equaling a total of \$408,731.44 was paid to Denmark according to agreement in 1858.⁵³

2. *The Maintenance of American Neutrality.*

Soon after the exchange of the last note connected with the Jones claims, a war broke out between Denmark and the German *Bund*. This is known in Danish history as the "Three Years' War," or the "First Schleswig-Holstein War," 1848-1850. The problem involved in the conflict is of no importance to this work, and will therefore not be discussed. In advance of the outbreak of the war, Germans had been sent to the United States to study naval plans; and American officers were offered positions in the new navy of the *Bund*.⁵⁴ When the war broke out this state of affairs could not well continue, and the American Secretary of the Navy, William B. Preston, wrote on March 19, 1849, to Commodore M. C. Perry that, on account of the war existing between Germany and Denmark, he must "abstain from any further participation, either by advising or otherwise, in the preparation and equipment of the Steamship *United States*, now at New York, recently purchased for the use of the German empire."⁵⁵

Meanwhile the building of this war vessel had come to the notice of the Danish representative, Steen Bille, at Washington. He appealed to Secretary of State John M. Clayton in behalf of the Danish government, asking that work on the ship be stopped, as the intention was to use the vessel against Denmark. Clayton immediately advised Baron von Roenne, the German Minister to the United States, that according to the law of April 20, 1818, there was a heavy penalty for fitting out a vessel in the United States, if it were to be used against a power friendly to us. If the vessel *United States*

⁵² *Ibid.*

⁵³ *Miscellaneous Documents*, 35 Cong., 1 Sess., Vol. I, Doc. 50; *Statutes at Large*, Vol. XI, p. 261. For the whole subject of the abolition of the Sound Dues, see Markus Rubin, "Sundtoldens Afløsning," *Historisk Tidsskrift*. 7de Række, 6te Bind; pp. 172-311.

⁵⁴ *Senate Documents*, 31 Cong., Vol. I, Doc. 1, pp. 21-22.

⁵⁵ *Ibid.*, p. 28.

were to be used against Denmark, we were determined to act vigorously in the case. Roenne's word of honor that the ship would not be used would, however, be sufficient for us, as we wanted the friendship of Germany as well as of Denmark.⁵⁶

In his answer Baron von Roenne stated that he was much surprised to learn from the Secretary of State that the vessel was "*really*" to be used against Denmark. He himself was in possession of no such information. So far as he knew, the vessel would proceed from New York harbor to Bremerhaven and there receive further orders. Besides, he was well aware of the existence of the act of 1818 and in order to avoid doing anything contrary to law he had consulted a distinguished member of the New York bar on the subject. This gentleman had informed him that, so far as he had the facts in hand, he did not feel that the German government was doing anything contrary to law.⁵⁷

Secretary Clayton, however, was not disposed to waste time in quibbling and thus give time for the ship to escape. He informed Roenne that he was sorry he had not received an answer to his request for a formal declaration that the vessel would not be used against a power friendly to the United States. He also informed the German minister that he had secured an opinion from the Attorney-General on the subject, which held that, since war existed between Germany and Denmark and since the vessel was being fitted out as a war vessel, a ship "so armed and fitted, when upon the high seas, in a state of war, is false to its flag and honor, if it does not "commit hostilities" upon an enemy whenever and wherever it meets one." Mr. Clayton therefore hoped that Baron von Roenne would give the assurance solicited.⁵⁸

After several exchanges of notes, in which the German minister tried to avoid the real issue and explain away the purpose of the vessel, the Secretary of State finally took the stand that, since Roenne avoided making a full and free

⁵⁶ *Ibid.*, pp. 49, 32-33. For the Act of 1818, see *Statutes at Large*, Vol. III, pp. 447-450.

⁵⁷ *Senate Documents*, 31 Cong., 1 Sess., Vol. I, Doc. 1, pp. 34-38.

⁵⁸ *Ibid.*, pp. 38-40.

promise that the *United States* would not be used against Denmark, Germany would have to subscribe to the provisions of the law of April 20, 1818, and give a bond amounting to twice the value of the vessel, its armament and cargo. Before clearing, the vessel would have to be registered as a vessel of the German empire.⁵⁹

Germany tried to avoid the obligations of the bond by changing the name of the vessel to the *Horsa*, by taking advantage of an armistice, and by misconstruing the Act of April 20, 1818; but to no avail. The United States government—to the great satisfaction of the Danish authorities—held Germany rigidly to the obligations of the bond. The *United States* arrived at Liverpool as a peaceful vessel, but it does not appear that she ever took part in the war. Our Minister Niles at Turin later stated to the Secretary of State that European statesmen with whom he had conversed expressed their approbation of the stand our government had taken in the case of the *United States*, and that the strict observation of the principles of international morality would do much to raise the character of the American government in the eyes of Europe.⁶⁰

3. *The Rise of the Butterfield Claims.*

While the United States and Denmark were negotiating concerning the Sound Dues, a very interesting case arose, known in our diplomatic correspondence as the Butterfield Claims. The negotiations concerning these claims extended over a period of nearly forty years and the matter was finally settled by arbitration.

In September, 1854, the *Benjamin Franklin*, a steamship of 850 tons burden, and the bark *Catharine Augusta* cleared from New York harbor for the island of St. Thomas, one of the Danish West Indies. Both vessels were equipped for war and the *Catharine Augusta* carried a cargo of uniforms, muskets, ammunition and other material of war. It was not fully known to whom these ships belonged, but they were in charge of a certain John N. Olcott, who executed a letter of at-

⁵⁹ *Ibid.*, pp. 48-49.

⁶⁰ *Ibid.*, pp. 64-68.

torney which authorized Mr. José Gener of the City of Mexico to negotiate a sale for them.⁶¹

Before the vessels left New York, the Venezuelan consul at that port informed the United States government that the vessels were being fitted out to assist a rebellion in Venezuela, which was being conducted by General José A. Paez. An affidavit having been sworn out to that effect by the Venezuelan minister, R. Azpurua, the vessels were detained, and a suit of libel instituted in the Southern District of New York. The prosecutor, however, was unable to sustain its charge; hence an order was issued discharging the vessels from custody and the libel was dismissed.⁶²

Toward the close of September, 1854, the vessels arrived at St. Thomas. The *Catharine Augusta* had suffered so much from rough weather that it was necessary for her to make repairs before she could go further. It was found that repairs could not be made without unloading the cargo.

Meanwhile Charles Eames, our representative to Venezuela, informed Charles J. Helm, our consul at St. Thomas, of the suspicion of the Venezuelan government. Our acting commercial agent, John E. Ruhl, answered Eames, as Helm was absent for the time being. He stated that the vessels had already been examined at New York, and that if they had ever been intended for an expedition against Venezuela he was sure that that intention had now been abandoned. He added that the Danish government was aware of the suspicion and had refused to allow one of the ships to unload her cargo in order to undergo repairs, but he felt that, according to existing treaty relations, Denmark could not persist in her refusal although she might attach conditions to her permission.⁶³

When Helm returned, the Danish authorities finally gave permission to allow the *Catharine Augusta* to be unloaded. Four conditions, however, were attached to the permission.

⁶¹ *Executive Documents*, 45 Cong., 3 Sess., Vol. XVI, Doc. 33, pp. 1, 2.

⁶² *Ibid.*, p. 3; *New York Tribune*, August 4, 8, 15, September 5, 15, 1854.

⁶³ *Executive Documents*, 45 Cong., 3 Sess., Vol. XVI, Doc. 33, pp. 3-4; *New York Tribune*, October 20, 1854; November 21, 1854; December 1, 1854.

First, the unloading must be done under Helm's personal supervision. Second, the material unloaded should remain in storage until H. H. Berg, the governor of the island, and Helm were both satisfied that it had a legitimate destination. Third, no breach of the laws of nations or treaty stipulations should be permitted. And fourth, a bond of \$20,000 was required to secure faithful performance of duty. This was entered into voluntarily by the people controlling the vessels.⁶⁴

While the *Catherine Augusta* was being repaired, the *Benjamin Franklin* was idle in the port. As the British steamer, *Parana* from Southampton was late in arriving at St. Thomas and the various windward and leeward bound mail steamers had left, J. B. Cameron, the agent for the British Royal Mail Steam Packet Co., chartered the *Benjamin Franklin* to carry the newly arrived passengers and mail to the Windward Islands and Barbadoes. The vessels of the Royal Mail Steam Packet Co. had the privilege at any time to enter or leave the St. Thomas harbor without notification. When the *Benjamin Franklin* had cleared, it sailed out of the harbor after sunset on December 21, 1854. As it passed Fort Frederick, the commander of the fort, Major Castonier, fired on the vessel. He claimed later that he had no official notice that the vessel was to be allowed to leave. According to his orders therefore, he fired a blank shot fore and aft. As the vessel did not stop he lodged a shot in the hulk. Fortunately no one was harmed. The vessel did not turn till the fourth shot was fired.⁶⁵

This affair created quite a stir. The shot which was lodged in the hulk of the vessel came very near harming several individuals. From the correspondence it seems that Major Castonier knew that the *Benjamin Franklin* was to leave but he had been informed that the vessel would "be cleared as usual by the consignees." The fact that he knew of the suspicion attached to the vessel, and that the clearance was not reported to him by the captain of the vessel nor by the company officials, made him think that she was sneaking out of the harbor unlawfully. According to report, the sequel

⁶⁴ *Executive Documents*, 45 Cong., 3 Sess., Vol. XVI, Doc. 33, p. 5.

⁶⁵ *Ibid.*, pp. 7-9, 24, 29.

was that Major Castonier was court-martialed, reduced in rank and transferred to St. Croix. The truth is that the commander and Governor Berg did not agree very well, and this was the cause of his transfer. The *Benjamin Franklin* proceeded on her journey as soon as she was repaired.⁶⁶

Meanwhile the repairs of the *Catharine Augusta* were completed and José Gener succeeded in selling the two vessels and the cargo to the Mexican government through the firm Cammet and Co. The vessels were to be delivered to any port in the Gulf of Mexico demanded by the buyers; and the price was fixed at \$500,000 cash. When, however, the Mexican government learned of the suspicion in regard to the original destination of the vessels, the offer was withdrawn in order to avoid complications with Venezuela.⁶⁷ Somewhat later José Gener succeeded in selling the vessels directly to the Mexican government but at a very reduced price.⁶⁸

On May 7, 1855, J. T. Pickett, our consul at Vera Cruz, having received authority from John N. Olcott, asked the Danish authorities at St. Thomas for the delivery of the cargo. Governor Berg replied that the papers presented were altogether too general in their nature to prove that the provisions under which the cargo had been unloaded would be fulfilled. Besides, the bond for \$20,000 given by Moron and Company would still be binding until the cargo arrived at San Blas, Mexico,⁶⁹ which was its final destination as stated by Pickett. Indeed, the Danish government would demand proof of the arrival of the cargo at the said port before the bond could be released. Taking advantage of a clause in the bond which stated that duty would be paid on the cargo "in the event of its being exported for the account of others but the original owners," the authorities claimed that, since the Mexican government was now the owner of the cargo, duty should be paid. The owners, on the contrary, claimed that the Mexican government would not become the owner until

⁶⁶ *Ibid.*, pp. 25, 27; *New York Tribune*, January 12, 1855; May 1, 1855.

⁶⁷ *Executive Documents*, 45 Cong., 3 Sess., Vol. XVI, Doc. 33, pp. 13-14.

⁶⁸ *Ibid.*, p. 16, 53-54.

⁶⁹ San Blas is on the Pacific coast in the district of Tepic.

the cargo was delivered at San Blas. After some delay the proper documents were produced. It appears that the authorities waived the claim for duty.

Clearance was given to the two ships on May 26, 1855.⁷⁰ The *Benjamin Franklin*, it was claimed, was so badly damaged by the shot fired at her that she had to be taken to Norfolk, Va., for partial repairs and later to Baltimore where the repairs were completed. From this place the vessel was cleared for Vera Cruz where she arrived in January, 1856. The contract of sale had been changed to allow this. The *Catharine Augusta* started on her long journey around Cape Horn for San Blas. Being badly worm-eaten because of her stay at St. Thomas and encountering bad weather and rough seas, she was forced to lay in at Pernambuco, Brazil, for repairs. The contract of sale having been changed in her case also, she arrived at Vera Cruz in June, 1856.⁷¹

The owners of the vessels felt that their property had been damaged by reason of the action of the Danish authorities in St. Thomas. They held Denmark responsible for their losses for the following reasons: the firing of the shot at the *Benjamin Franklin*; the unsuccessful transaction through Cammet & Co., caused by the suspicion of the Danish authorities; the loss on their capital by the delay in releasing the cargo of the *Catharine Augusta*; and the worm-eaten condition of the same ship caused by its detention. In October, 1857, a claim was prepared including the following items:

Value of the two vessels and the cargo.....	\$500,000
Actually received in cash.....	\$315,000
<hr/>	
Loss through reduced sale price and depreciated Mexican certificates.....	\$185,000
Interest at 12 per cent on \$185,000 Sept. 1, 1855 to September 1, 1857.....	44,400
Repairs, interest, traveling expenses, translation fees, documents, etc., having their origin in the acts of the Danish authorities.....	72,814.08
<hr/>	
Total.....	301,814.08

⁷⁰ *Ibid.*, pp. 63-64.

⁷¹ *Ibid.*, p. 64.

Interest on this amount from September 1, 1857, to the date of final payment of the claim was to be added to this sum.⁷²

On June 20, 1860, this bill with claim for payment was laid before Mr. Hall, the Danish Minister of Foreign Affairs, by James M. Buchanan, our representative at Copenhagen. Two months later a reply was received in which the Danish government claimed it was not liable for damages because the authorities at St. Thomas in delaying the vessels had done nothing more than their duty.⁷³ As the settlement of this case will be treated in a later chapter, Hall's reply will be treated there.

⁷² *Ibid.*, pp. 53-54, 64. The bill is abbreviated from the original.

⁷³ *Ibid.*, pp. 56-59.

CHAPTER V.

DANISH AMERICAN RELATIONS RESULTING FROM THE CIVIL WAR, 1860-1872

Most of the incidents treated in this chapter had their origin either directly or indirectly in the Civil War. It is pleasant to relate that during the trying days of this war Denmark stood as a firm and never swerving friend of the Union government. The Danish government was one of the few which did not want to see the United States divided.

1. *Negotiations Concerning the Confederacy.*

In her diplomatic relations with foreign powers, the United States had two definite problems that sprang directly from secession. The more prominent of these was the need to prevent the Confederacy from obtaining aid in European countries. The other problem was to forestall the recognition of the independence of the Confederacy.

It was natural that the South should attempt to secure aid from foreign powers. This was foreseen at Washington. Even before the first battle of Bull Run, Secretary of State Seward wrote to Bradford R. Wood, our representative at Copenhagen, warning him to combat any movement that might be made by the Confederacy to obtain aid from Denmark. As a result, Wood sounded the Minister of Foreign Affairs, M. Hall, concerning his attitude towards the rebellion. Hall's answer was definite and clear. He was decidedly in favor of the Union in its struggle against the rebellion. He even went a step further and despatched a man-of-war to the Danish West Indies for the purpose of preventing privateering and illicit trade and of preserving neutrality.¹

From time to time Confederate emissaries visited Copenhagen for the purpose of obtaining aid and recognition, but the Danish authorities refused to receive them as governmental representatives. Dudley Mann, who was sent to Copenhagen by the Confederacy, finally succeeded in getting a pri-

¹ *Foreign Relations of the United States, 1861-1862, Pt. I, pp. 311-314.*

vate interview with Hall. He attempted to prove that the Union strength was giving way, as was shown by the fact that gold was much higher in the North than in the South. He hoped that Denmark would not be the last nation to recognize the independence of his government. Hall replied that other sources of information convinced him that the success of the Confederacy was by no means sure. In regard to the question of recognizing the independence of the South he stated, "that though Denmark might not be the last to do this, she certainly would not be the first."²

In spite of this attitude, rumor reached the United States that Denmark had recognized the independence of the Confederacy. Wood was instructed to request the Danish officials to revise the decree in which this action had been taken.³ Upon investigation it was learned that the rumor was untrue. In 1865 when Bluhme became Minister of Foreign Affairs in Denmark he stated to Wood "that the government of the King has never recognized the so-called Confederate States as a belligerent party."⁴

When the Second Schleswig-Holstein War broke out in 1863, the United States showed its good will towards Denmark by strictly enforcing her neutrality laws, so that the German powers received no aid from America. The war, however, threatened the traffic between New York and the ports of northwestern Germany, especially Bremen and Hamburg. Seward requested Denmark to allow this traffic to continue as it was very valuable to us, "more so now than heretofore, owing to the embarrassment of our commerce." He wanted Denmark clearly to understand that it was not a demand but that, if the Danish government would make the concession and allow the steamers to continue to ply between the two points, we would consider it "as a gratifying evidence of the friendship and good will of Denmark."⁵ From the later correspondence it does not appear directly what

² *Foreign Relations of the United States*, 1862, p. 780.

³ *Ibid.*, p. 778.

⁴ *Foreign Relations of the United States*, 1865-1866, Pt. III, p. 179.

⁵ *Ibid.*, 1864-1865, Pt. IV, pp. 342-343.

answer was given to this request; but it seems that Wood must have made satisfactory arrangements, for Seward in one of his dispatches included the following sentence: "Your proceedings in regard to the Bremen steamers are approved."⁶

It was the practice of Captain Charles Wilkes, made famous by the *Trent* affair, to sail into neutral ports and watch neutral vessels. If he suspected that a vessel was carrying on illicit trade, he would follow her and capture her as soon as she was out of territorial waters. This occurred most frequently at St. Thomas. In June, 1863, Denmark complained that Wilkes misused her friendly hospitality and asked that the practice be stopped. As a result an order was issued to the Navy Department in July by President Lincoln, and since complaints ceased thereafter, it may be concluded that the order was obeyed.⁷

2. *The Case of the Jürgen Lorentzen.*

The friendly attitude of the two powers towards each other during the Civil War period was well exemplified in two maritime cases which arose. The first of these was connected with the bark *Jürgen Lorentzen* of Aabenraa. On December 26, 1861, this vessel with a cargo of coffee and under the command of Captain T. W. Reimer was on its way from Rio de Janeiro to Havana, Cuba, where it was to receive further orders. At eleven o'clock in the forenoon she met the United States warship *Morning Light* in 7° N. Lat. 38° 30' W. Long, a location almost due north of Ceara, Brazil. Lieutenant H. T. Moore, who commanded the American vessel, demanded the papers of the *Jürgen Lorentzen*. As these stated that she

⁶ *Ibid.*, p. 344. The friendly relations that existed between the two nations was perhaps augmented by President Lincoln, when in the fall of 1862 he sent a pair of Colt's pistols to the Danish King. His Majesty was very much pleased and expressed freely his hope that the Union would be preserved. Referring to this gift B. B. Wood stated: "I think the Danish officials appreciate very highly this kindness on the part of the President; for, whatever may be their opinion as to the possibility of preserving the Union, they, unlike some others, do not wish its destruction." *Foreign Relations of the United States*, 1863, Pt. II, pp. 1188-1189.

⁷ *The Diary of Gideon Welles, 1861-1869*, Vol. I, pp. 322, 325, 451-452.

might go to New Orleans or to New York and as he did not examine the ship's register nor the papers proving her nationality, he took it for granted that she was on an unlawful journey to a Southern city. He put Lieutenant P. Giraud and several other Americans on board the vessel and ordered them to take the ship to New York. He put seven of the Danish crew on board his own vessel and forced them to serve as a part of his crew. Captain Reimer claimed he was badly treated by the captors.

The Danish representative at Washington, General W. R. Raaslöff, brought the matter to the attention of our government and asked for an investigation. The Secretaries, William H. Seward and Gideon Welles, did all in their power to uncover the facts and found that the allegations were largely true. Lieutenants Giraud and Moore excused themselves by stating that some of the complaints were not well founded, and that others, though well founded, were the result of inexperience and zeal to serve their country. Moore requested that, if his explanation were not satisfactory, he might be ordered to go to Washington for a full investigation.

The American authorities, however, did not wish to prolong the discussions. Seeing that Denmark should not be made to suffer for the inexperience of our men, they offered to settle the matter by arbitration. As the case was largely a question in regard to facts and involved no vital point of international law or honor, General Raaslöff accepted the offer in behalf of the injured party. A commission of two men was to be appointed and both sides agreed to abide by its decision. William H. Seward appointed Moses Taylor of New York and General Raaslöff appointed H. Dollner, the Danish consul at New York. After a thorough investigation they agreed on a statement of damages covering eleven points and amounting to \$1,850. The original amount claimed was \$2,646.57. The master of the *Jürgen Lorentzen* waived all claims for damages on his own part.⁸ On March 14, 1862, President Lincoln transmitted to Congress a copy of the correspondence and the findings of the commission. He

⁸ *House Executive Documents*, 37 Cong., 2 Sess., Vol. V, Pt. II, Doc. 78, pp. 1-9.

recommended that an appropriation be made for the amount awarded by the referees.⁹ Congress followed the President's advice and the case was thus settled without bad feelings.¹⁰

3. *The Case of the Stonewall.*

The second maritime case that arose during the Civil War concerned a Confederate cruiser. In the latter part of the year 1864 it came to the notice of our representatives in Denmark, Consul George P. Hansen at Elsinore and Minister Bradford R. Wood at Copenhagen, that an "iron-clad, brig-rigged, steam ram" had come to Copenhagen from Bordeaux, France, where it had been built by the firm Arman. The ship bore the name *Stærkodder*, and it had arrived under the French flag without guns. The armament arrived later in a British vessel. Soon after the vessel's arrival her French crew was discharged, and the vessel remained in the harbor till January, 1865. At this time either De Reviere, the agent of Arman, or Puggard, a Danish merchant to whom she was consigned, applied for permission to secure a Danish crew to sail her back to Bordeaux under the Danish flag.

Since the Danish government, which had originally ordered the ship built, had refused to accept the vessel on the ground of non-compliance with construction regulations, this permission was given. She sailed into the Cattegat, but returned soon after for some cause or other and landed De Reviere. She later put into Christiansand, Norway, to take in coal, the money for which had been furnished by De Reviere. She proceeded to the coast of Holland, where she took on board De Reviere and "another man" and sailed for Quiberon Bay where she anchored in French waters. The Danish captain and crew were now informed that the ship had been sold, after which they departed taking the Danish flag with them. The vessel, which at various times was known as the *Sphinx*, the *Stærkodder*, the *Olinde*, and the *Stonewall*, received coal from a French collier, and ammunition and a crew from an English vessel. She then unfurled the Con-

⁹ J. D. Richardson, *op. cit.*, Vol. VI, p. 70.

¹⁰ *House Journal*, 37 Cong., 2 Sess., pp. 459, 498, 524, 525, 568, 600, 606, 618, 635; *Senate Journal*, 37 Cong., 2 Sess., pp. 339, 357, 419, 421, 429; *Statutes at Large*, Vol. XII, pp. 902.

federate flag. The crew which came on board was the old crew of the *Florida*.¹¹ Captain V. P. Page became her master.¹²

As it looked on the surface, Denmark had been guilty of selling a vessel to the Confederate States. The general opinion was that she had ordered the vessel while her war with Prussia and Austria was going on; being poverty stricken at the end of the disastrous conflict, she had taken the opportunity to sell a piece of property worthless to her. In that case she was guilty of a very unfriendly act and ought to be held responsible for the results.¹³ The Danish government, however, put up a very strong case for its innocence in the matter. In a communication from Minister Bluhme to B. R. Wood in March, 1865, the following facts were set forth to justify Denmark's conduct in the case: First, the vessel, which was already in the process of building, had been contracted for by the Danish government in March, 1864, on the condition that she should be finished by June 10. The work of completing her was to be under the control of a Danish naval officer and according to certain specifications. Second, Schonheyder, who was the officer appointed to supervise the work, refused to accept the vessel because she was not constructed according to contract. Third, Arman, hoping that the Danish government might accept the vessel in spite of Schonheyder's action, sent the vessel from Bordeaux to Copenhagen at his own risk. For the sake of saving expense the French captain and crew had been dismissed immediately upon arrival. Fourth, the Danish naval authorities having inspected the vessel refused to accept her, and consequently the contract was annulled. Fifth, since the vessel must now be returned to Bordeaux, permission was given to allow Arman to secure a Danish captain and crew.¹⁴ In view of all these

¹¹ *Foreign Relations of the United States, 1865-1866*, Pt. II, p. 220; Pt. III, pp. 166-173.

¹² *Ibid.*, Pt. II, p. 216.

¹³ For this view, see J. T. Scharf, *History of the Confederate States Navy*, pp. 804-806; David D. Porter, *The Naval History of the Civil War*, pp. 823-827.

¹⁴ French law prohibited a vessel from sailing under French flag, unless

circumstances, the Danish government was "entirely unconnected" with the transfer of the vessel as she had never been Danish property.¹⁵

In a later communication from Bluhme it was declared that, if any Danish citizen should in any way break the laws of neutrality, very heavy punishment would be meted out to him upon his conviction. While several investigations were held, it does not appear that anyone was punished.¹⁶

It is well established that, during the early part of the Civil War, Napoleon III of France did not object to the building of Confederate cruisers in French ports. Consequently the Confederates ordered six very powerful ships to be built by French firms. One of these was the *Sphinx*. Together with its sister ship *Cheops* it was being built at Bordeaux by Arman. A little later, while these ships were being constructed, Napoleon realized that it was bad for his Mexican policy to allow such action; hence he ordered the discontinuance of further building. It was therefore necessary for the firm Arman to sell them to some neutral power. As a result of this the *Sphinx* was sold to Denmark. This agrees with Bluhme's statement that when the Danish government ordered the vessel to be built it was already under construction.

What happened at this juncture it is difficult to learn. Denmark certainly wanted the ship in the early part of 1864 as she was then at war. Perhaps Arman found that the time was too short and so hurried the work too much. This may have resulted in poor construction, which was the pretext for Denmark's refusal to accept the vessel. Another probability exists. The Confederate agents may have bribed the firm to deviate from the specifications of the Danish contract so that the vessel would not be acceptable to that government. At any rate Arman had been informed by Shonheyder that the Danish government would not accept the vessel. The

at least two-thirds of the crew were French. *Foreign Relations of the United States, 1865-1866*, Pt. III, p. 168.

¹⁵ For text of the letter, see *ibid.*, pp. 173-174.

¹⁶ *Ibid.*, pp. 174, 175, 176, 178.

trip to Copenhagen was without any doubt planned to evade the French laws and get the vessel away from Bordeaux. This is proved by the fact that the *Stærkodder* had 180 tons of coal on board when she left Bordeaux, an amount about twice as great as was needed for a trip to Copenhagen and return. Besides, she put in at Cherbourg on her way north and took on more coal. If Arman honestly hoped to get the Danish government to accept the ram, why should he have been so anxious to fill her bunkers with coal?¹⁷

It seems clear that the responsibility for the escape of the *Stonewall* rests with the firm Arman. His agent, Amous de la Reviere was a contract broker for the Confederate government. This gentleman was angry with the Union government because when he offered to make guns for the United States he had been refused.¹⁸ He had no right to clear the vessel at Copenhagen for Bordeaux and fail to complete the voyage. It would devolve on the French government to punish the perpetrators if the *Stonewall* should commit any act detrimental to the United States. France would be responsible to the United States for whatever might happen, as England was forced to be for the acts of the *Alabama* and others.

The *Stonewall* proceeded into Spanish waters and later crossed the Atlantic. When the war ended the Confederacy surrendered her to the Spanish government of Cuba, which delivered her to the United States. Later she was sold to Japan. As she never succeeded in doing any harm it does not appear that Arman or his agent was punished.¹⁹

4. *The Question of Allegiance.*

One of the great measures passed by Congress during the Civil War was the law popularly known as the Homestead Act. The fact that a man could secure a large tract of land simply by settling on it caught the fancy of thousands of

¹⁷ *Ibid.*, Pt. II, pp. 213-219. John Bigelow, who was United States Minister to France in 1865, has given a very fine account of this affair in his book *France and the Confederate Navy*, pp. 57-103. He exonerates Denmark.

¹⁸ *Foreign Relations of the United States, 1865-1866*, Pt. II, pp. 211-212; Pt. III, p. 166.

¹⁹ John Bigelow, *op. cit.*, pp. 81-103.

people in Denmark. The man who in that country labored a life time and through hard toil and prudent management was able to become the possessor of a few acres had reasons for feeling proud at the end of his life's journey. What a contrast to the American conditions under which 160 acres might be had almost for the asking! The Dane is proverbially a farmer, but before the Civil War comparatively few Danes had migrated to the United States. The opening up of the Mississippi valley, coupled with the fact that title to land could be secured easily, caused the Danish population in the United States to increase from 9,962 to 35,431 between 1860 and 1870.²⁰

The Danes in America did not forget to inform their relatives in the old country of the wonderful opportunities that existed here. In a circular letter sent by a Danish Baptist church in Wisconsin, June 10, 1862, to the Baptist churches in Denmark is found the following extract. "As far as our earthly conditions are concerned we must say that they are very good. The land is rich and produces an abundance of all things, so that the cost of living is low The government is also very good and has recently passed a law by which each man can get 160 acres of land if he will settle on it. This law will be a great boon to a large number of our younger men, who have decided to go out together and each get a piece of land, if the Lord wills it."²¹ The influence of letters of this type is shown abundantly in the large Danish settlements in the Mississippi valley.

The increased number of immigrants raised the problem of naturalization and allegiance. It is a well-known fact that England did not recognize expatriation, but she was not the only nation which took that stand. Our diplomats abroad were constantly appealed to by American citizens of foreign birth because, when they returned to the mother country for

²⁰ *Statistics of the United States, Census 1850*, p. XXXVII; *Eighth Census of the United States, 1860*, p. liii; *Ninth Census of the United States, 1870*, p. 338.

²¹ The original of this letter was found in Denmark by Rev. August Broholm. It is preserved in the archives of the Danish Baptists in America, located at Clarke's Grove, Minn.

a visit, they were pressed into the military service.²² Aroused by the situation in Denmark and Germany, George H. Yeaman, our representative in Denmark, wrote an extensive article in 1867 on the subject: "Allegiance and Citizenship." This was sent to Secretary Seward. Yeaman held that there were only three reasons why a foreign power might seize a man on his return: first, unpaid debt; second, crimes; third, escape from military service. The two first were self-evident and fair; the third was only fair provided he had left his home country to escape the service. If, however he went away to establish a home in a foreign country and returned only for a short visit, he should be protected by the country of his new allegiance.

General Raaslöff, who had been the Danish representative at Washington for many years and was now Minister of War in Denmark, read Yeaman's article and agreed with it in the main. He suggested, however, that the state department of each country should keep a record of each case of naturalization, and should notify the foreign office of the country from which the subject came whenever naturalization was completed. Said Raaslöff: "He naturalizes in the United States; goes elsewhere and gets into trouble; is dealt with as an American but claims to be a Dane. The Danish government desiring to discharge its duties of protection would yet not wish to be imposed upon. It has no evidence here of citizenship,²³ and the man is still *prima facie* a citizen."²⁴

General Raaslöff's idea was reported by Yeaman to Seward. Seward, however, showed that, while the plan might work in Europe it would be absolutely impracticable in the United States where 250,000 people immigrated every year. He held it would not be long before the European countries would have to recognize the principle of expatriation. A man had "a natural right" to choose his home wherever he pleased. The sooner the European states accepted that theory the better it would be for everybody concerned.²⁵

²² *House Executive Documents*, 40 Cong., 2 Sess., pp. 663-678.

²³ He most likely means *naturalization*.

²⁴ *Ibid.*, p. 683.

²⁵ *Ibid.*, p. 685.

During the late sixties the question of allegiance, naturalization, and expatriation took a prominent place in politics. The Fenian movement had done its share to bring it before the people. In 1868 many of the state party platforms, and both of the chief national party platforms contained planks on the subject.²⁶

This may serve as the background for the treaty between Denmark and the United States which was concluded on July 20, 1872. This treaty, which was only one out of many negotiated by the United States with other countries about the same time, covered the whole field of naturalization, readmission to former status, and renunciation of acquired status of citizens. It was negotiated by Michael J. Cramer, our representative at Copenhagen, and Baron O. D. Rosenöhrn-Lehn, the Danish Minister of Foreign Affairs.²⁷

5. *The First Attempt to Purchase the Danish West Indies.*

The three islands known as the Danish West Indies were discovered by Columbus on his second voyage in 1493. They form the most important part of the group now known as the Virgin Islands, and have a total area of 138 square miles. The inhabitants are largely negroes and mulattoes, but some whites live in the islands, having migrated from Denmark, England and the United States. Although the islands belonged to Denmark for a long time, yet the language of the inhabitants is English. During the Danish possession, however, the official language was Danish. It has already been shown that most of the trade of the islands was carried on with the United States. From the commercial standpoint, therefore, it was not necessary to buy them, as Denmark would not allow any other foreign nation to trade there. Most of

²⁶ *Appleton's Annual Cyclopaedia*, 1868, pp. 545, 548-550, 745, 748.

²⁷ For the text of the treaty, see W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 384-386. For treaties with other countries on the same subject, see *Ibid.*, pp. 434, 533, 691, 1132, 1758. Although Art. I of the treaty of 1872 expressly declared that United States citizens naturalized in Denmark should by that act be recognized by our government as citizens of Denmark, yet Denmark continued to refuse to naturalize any American citizen until a certificate of expatriation was received from the foreign office at Washington. For this subject, see *Foreign Relations of the United States*, 1888, Pt. I, pp. 488-489.

the trade with the islands was carried on through the harbor of St. Thomas, the largest of the group. Its harbor at Charlotte Amalie is one of the finest in the world.²⁸

As the Civil War had demonstrated the value of this harbor, the administration became anxious to secure it. In January, 1865, when the various foreign representatives made their New Year's call at the Executive Mansion, President Lincoln paid special attention to General Raaslöf, the Danish Minister. This gentleman was especially well liked at Washington because of his outspoken sympathy with the Union cause.²⁹ On January 7, 1865, a dinner party was held at the residence of M. de Geoffroy, *chargé d'affaires* of France. It happened that William H. Seward and General Raaslöf arrived about half an hour early and found themselves in a drawing-room almost alone. The Secretary of State seized the opportunity and broached the subject of purchasing the Danish islands. The General was personally unfavorable to such action and declared that the islanders were content under their present sovereignty. He promised, however, to report the matter to his government.³⁰ On April 12, he reported to Seward that he had heard from Copenhagen in regard to the subject of the Danish West Indies and it was his duty to inform the American government that Denmark did not care "much" to sell the islands.³¹

The assassination of President Lincoln and the attempt on Seward's life delayed further consideration of the subject for some time. On December 29, 1865, General Raaslöf informed Seward that Denmark was now more favorable toward the subject of selling the islands and he was instructed to find out what the United States would be willing to pay for them. The financial embarrassment in which Denmark found herself after the Prussian attack and the loss of the duchies in 1864 tempted her to sell her West India possessions.³²

²⁸ *Congressional Record*, 64 Cong., 2 Sess., Vol. LIV, Pt. IV, pp. 3647-3651.

²⁹ James Parton, *The Danish Islands*, p. 7.

³⁰ *Ibid.*

³¹ *Ibid.*, p. 10.

Seward was somewhat taken with surprise and was unable to say just how much the United States would pay for the islands; but after a cruise to the West Indies in the spring of 1866 during which time he visited and inspected the islands, he made an offer of \$5,000,000 to General Raaslöff. This offer was made on July 17, 1866. Denmark refused and informed our government that it might not even be possible to sell one of the islands, St. Croix, as France might object on the ground that the treaty by which she ceded the island to Denmark in 1733 had stipulated that Denmark should not sell it to another country. Thus the matter was undecided till January, 1867, when Seward pressed the matter, through our representative in Copenhagen, for a final conclusion. Finally, in May of that year, Count Frijs, the Danish Minister of Foreign Affairs, made a counter-proposition in which he offered the three islands, St. Thomas, St. John, and St. Croix, to the United States for \$15,000,000. This offer, however, was subject to ratification by the Danish *Rigsdag* and to the consent of the inhabitants of the islands expressed by a plebiscite.

Seward answered by offering \$7,500,000, but he objected to the plebiscite, stating that it was unnecessary. If any of the inhabitants were dissatisfied they would be given the opportunity to leave the islands within two years. This offer was refused; and Denmark made a new offer of \$11,250,000 or 20,000,000 Danish rixdollars for the three islands, or \$7,500,000 for St. Thomas and St. John. Denmark would thus retain the largest and most valuable of the islands from the standpoint of production, but the United States would get St. Thomas, the most valuable from the standpoint of navigation. Whichever of the two offers the United States should accept, the Danish government would insist on a plebiscite and no treaty would be accepted if this condition were not included. For some time the question hung fire. In the latter part of the summer of 1867 Senator Doolittle was sent to Copenhagen to aid Yeaman in the negotiations. Admiral Farragut made a visit to Copenhagen for the same purpose, but to no avail. Denmark continued to insist on the plebiscite. Finally, the United States gave in, and a treaty was concluded on October 24, 1867, by Count Frijs and Yeaman, by the

terms of which the United States were to secure the two islands for \$7,500,000.³³

The day after the treaty was concluded, the Danish king caused a royal proclamation to be made to the inhabitants of the two islands. In this he stated that the treaty had been made subject to their ratification. He therefore hoped that they would show their wishes in regard to the cession by a free and extensive vote. He concluded by saying: "With sincere sorrow do we look forward to the severing of those ties which for many years have united You to Us, and never forgetting those many demonstration of loyalty and affection We have received from you, We trust that nothing has been neglected on our side to secure the future welfare of Our beloved and faithful Subjects, and that a mighty impulse, both moral and material, will be given to the happy development of the Islands under the new Sovereignty."³⁴

Denmark sent a commissioner to the islands to supervise the election. To work in harmony with this gentleman Seward sent the Reverend Charles Hawley of Auburn, New York. Later Admiral Palmer with the *Susquehannah* and Commodore Bissel with the *Monongahela* were sent to the islands to be of any service that the authorities might call for. The *Monongahela* was placed at the disposal of the authorities for transportation purposes.³⁵ Their work was somewhat interrupted on November 18, 1867, by a very severe earthquake which caused much damage. There seemed to be only one serious objection to the transfer in the eyes of the islanders. Under Denmark the St. Thomas harbor had been a free port, and the St. Thomas merchants feared that this condition would be changed if the United States secured the islands. The Danish commissioner, Chamberlain Carstensen, and the Reverend Charles Hawley were sent to Washington to learn what would be the attitude of our government on that point. Seward

³³ *Ibid.*, pp. 25-31; *Congressional Record*, 64 Cong., 2 Sess., Vol. LIV, Pt. VI, p. 694.

³⁴ For the text of the proclamation translated from the Danish as it appeared in the *St. Thomas Tidende*, see De Booy and Faris, *The Virgin Islands*, pp. 18-19.

³⁵ James Parton, *op. cit.*, pp. 31-33.

informed them that in case of transfer the port would not be free. In spite of this information, the sentiment of the islanders was overwhelmingly in favor of annexation. On January 9, 1868, the election was held. The vote in St. Thomas stood 1039 in favor and 22 against the transfer; in St. John 205 in favor and none against.³⁶ The Danish *Rigsdag* ratified the treaty soon after, and on January 31, 1868, it was signed by the king.³⁷

When the treaty was presented to the United States Senate, that body was in the midst of the great fight of Reconstruction, and the day of the impeachment and trial of President Johnson was close at hand. It soon became evident that the question of ratification of the treaty would be handled as a partisan measure. It was feared that the purchase of the islands would enhance the prestige of the administration, hence the work of ratification was purposely delayed. As the day drew near for the expiration of the time limit stipulated in the treaty for ratification, Seward negotiated a supplementary treaty extending the time limit.³⁸ Action being delayed again, the time was extended to April 14, 1870. Through the influence of Charles Sumner, who was chairman of the committee on foreign relations, the treaty was kept in committee until March 24, 1870. At that time it was reported adversely and the Senate sustained the report.³⁹

When the Danish government was notified of the action of the Senate, King Christian IX promulgated another royal proclamation to the people of the islands. He explained that the heavy debt caused by the disastrous war a few years earlier had been the cause of Denmark's decision to sell the islands. The action on the part of the United States Senate spared both the home country and the colonies the pain of separation. He hoped that by united efforts the interests of the islands might be promoted.⁴⁰

³⁶ *Ibid.*, pp. 34-39.

³⁷ *Congressional Record*, 64 Cong., 2 Sess., Vol. LIV, Pt. VI, p. 694.

³⁸ J. D. Richardson, *op. cit.*, Vol. VI, pp. 688, 693.

³⁹ *Congressional Record*, 64 Cong., 2 Sess., Vol. LIV, Pt. IV, p. 3648.

⁴⁰ De Boy and Fairs, *op. cit.*, pp. 20-22.

It is hardly possible to believe that the sale of the islands would have caused any tears either in Denmark or the West Indies. The plebiscite of January 9, 1868, abundantly substantiates this view so far as the islanders are concerned. The Danish West Indies were not colonized from Denmark, consequently the ties of consanguinity, which tied England to her colonies, were found not to exist among the Danish people.

When George H. Yeaman on February 1, 1868 telegraphed to Washington that the treaty had been ratified by the *Rigsdag* and signed by the King, he added in cipher, "Several European powers hope it will fail in Congress."⁴¹ These powers—England was one of them—had their wish granted by the action of our Senate.

The Senators who took part in the action did not admit that domestic politics was the cause of the defeat of the treaty. In personal letters from Senators Cameron of Pennsylvania, Patterson of New Hampshire and Harlan of Iowa to Edward L. Pierce in 1889, it was brought out that the reason the Senate defeated the treaty was because the committee on foreign relations felt the price was too high. These gentlemen were members of this committee. It was also contended that Denmark was not mistreated because the House of Representatives had given warning in November, 1867, that it would not support the purchase of any more territory.⁴²

It will not be amiss to state the attitude of the Danish people on the subject. On April 24, 1869, an article appeared in *Dagbladet*, a Copenhagen newspaper, which stated that Denmark was well aware that the United States Senate had the right to reject the treaty. As a country with a constitutional government she had given the same power to her *Rigsdag*, and she was as anxious as any nation to see that such a right was maintained. But it was an unfair and a very unfriendly act for the Senate to exercise that right in the form of a delay. The United States had taken the initiative in the

⁴¹ James Parton, *op. cit.*, p. 42.

⁴² Edward L. Pierce, *A Diplomatic Fiasco*. This is a pamphlet of 18 pages published in 1889. It argues against the purchase. For the House Resolution of November 25, 1867, see *Congressional Globe, Appendix*, 40 Cong., 1 Sess., pp. 792-793.

purchase of the islands. If the Senate did not agree with the administration it was its duty to be frank about it and not keep the Danish government and more especially the people in the islands in suspense. The word "No" was honorable and justifiable but it was not courteous to let the matter go by default. Such action did not show "international good breeding."⁴³

The islanders were very much disappointed. As we shall see later, they showed their dissatisfaction from time to time until the purchase by the United States was finally consummated.⁴⁴

⁴³ "The St. Thomas Treaty," Editorial in *Dagbladet*, Copenhagen, April 24, 1869. The article in translation is found in the Library of Congress.

⁴⁴ A few minor events took place during the sixties which were not connected with the Civil War. In 1861 a consular convention of two articles was added to the treaty of 1826. See W. M. Malloy, *Treaties, etc.*, Vol. I, p. 383. In 1864 the Missionary Society of the Methodist Episcopal Church sought aid from the State Department to secure permission to operate in Denmark. This was granted by the Danish government. *Foreign Relations of the United States, 1864-1865*, Pt. IV, p. 344; *Ibid.*, 1865-1866, Pt. III, pp. 180-181. After the assassination of President Lincoln letters of condolence were received by our government from the Danish foreign office and from the Governor of the Danish West Indies. *Foreign Relations of the United States, Appendix, 1865*, pp. 43-45.

CHAPTER VI

MISCELLANEOUS PROBLEMS OF THE LATTER PART OF THE NINETEENTH CENTURY, 1868-1900

During the period between 1870 and the end on the nineteenth century, a number of events took place which bulked large in the diplomatic relations between the United States and Denmark. They are too varied in their nature to be followed in their chronological order. Each problem will therefore be treated separately.

1. *Danish Exportation of Criminals.*

Early in 1868 our government was informed by Consul George P. Hansen at Elsinore that it was the practice of the Danish authorities to send convicts to the United States. Recently Ole Sörenson, a notorious criminal, had been promised his freedom if he would leave the country. The man was a vagrant, a thief, and under suspicion for murder. The consul learned through the newspapers that the police at Copenhagen had sent him to the United States, as they thought it was cheaper to ship him out of the country than to keep him. Upon communicating with V. C. Crone, the director of police at Copenhagen, he had received no reply. He had, however, succeeded in getting a lithograph of the criminal and had sent it to the chief of police in New York and had told him to be on the lookout for the man.¹

When this information reached the United States government, Secretary Seward immediately instructed George H. Yeaman to remonstrate with the Danish government against the practice.² President Andrew Johnson sent a message to Congress stating the facts and recommending that a law be

¹ *Senate Documents*, 40 Cong., 2 Sess., Vol. II, Doc. 71, pp. 1-2. Our government was informed of a similar practice going on very extensively in the provinces of Westphalia and Bavaria in Germany. *Foreign Relations of the United States*, 1868-1869, Pt. II, pp. 42-43.

² *Senate Documents*, 40 Cong., 2 Sess., Vol. II, Doc. 71, p. 3.

passed "making it a penal offense to bring such persons to the United States."³ That body, however, true to its policy of opposition to the administration must have preferred to have the criminals come than to humor the president. No law was passed on the subject till the year 1875.⁴

In 1874 another case arose. In the spring of that year the Secretary of State, Hamilton Fish, wrote to the American representative in Copenhagen, Michael J. Cramer, that the S. S. *Washington* had recently brought six convicts from Denmark. Each had a draft for \$7.60 drawn on the American Emigrant Co. All but one would be prevented from landing and would be returned to Copenhagen. He instructed Cramer to make a rigid inquiry into the case. He declared that the United States would consider it as an "unfriendly act" if the King's government should participate in the practice of sending criminals to America. Although the Danish representative at Washington, J. Hegerman Lindenerone, had excused the government of Denmark on the plea that the men had served out their terms and were therefore like other immigrants, it should be made plain to Denmark that we were unwilling to have such people come here.⁵

Henry B. Ryder, our *chargé d'affaires, ad interim*, reported another case in 1882. In a letter to the Secretary of State, F. F. Frelinghuysen, he stated that a certain Mads Jensen, *alias* Jörgensen, a criminal from Oldrup, Jutland, was about to be sent to the United States by the police at Copenhagen. As there was no time to work through the Minister of Foreign Affairs, he had written a letter to the chief of police at Copenhagen, which had prevented the criminal from leaving for America. Later he had presented the matter to the foreign office, as a result of which this individual case was ended.

The minister, however, had asked him for an interpreta-

³ J. D. Richardson, *op. cit.*, Vol. VI, p. 637.

⁴ *Statutes at Large*, Vol. XVIII, Pt. III, p. 477.

⁵ *Foreign Relations of the United States, 1874-1875*, pp. 368-369.

tion of Section 5 of the Act of Congress of March 3, 1875.⁶ He had replied that it was not within his province to interpret or construe acts of Congress as that power belonged to the courts. In the event of a Danish convict migrating to the United States, the courts would interpret it in each particular case. However, the United States would appreciate very much if the Danish government would prevent convicts from immigrating to America even if they had served out their term.⁷ John Davis, the acting Secretary of State, answered Ryder's communication and praised him for his discretion in the Jensen case. He further stated that it was the duty of every representative abroad to prevent such persons, as well as paupers, from entering the United States, and that the government would deprecate very much to learn that any government would aid an undesirable class of its population to migrate to America.⁸

Another convict case arose in 1887. Acting Secretary of State, James D. Porter, wrote in September of that year to Rasmus B. Anderson, United States Minister Resident at Copenhagen, that Denmark was still sending ex-convicts to the United States as soon as they had served their term. He was informed that they were aided financially by the Danish government in various ways. Minister Anderson was instructed to get all the information he could on the subject.⁹

A month later Anderson replied that the information ob-

⁶ The immigration act of March 3, 1875. "Sec. 5. That it shall be unlawful for aliens of the following classes to immigrate into the United States, namely, persons who are undergoing a sentence for conviction in their own country of felonious crimes other than political or growing out of or the result of such political offenses, or whose sentence has been remitted on condition of their emigration, and women 'imported for the purpose of prostitution.' . . . And for all violations of this act, the vessel, by the acts, omissions, or connivance of the owners, masters, or other custodian, or the consignees of which the same are committed, shall be liable to forfeiture, and may be proceeded against as in cases of frauds against the revenue laws, for which forfeiture is prescribed by existing law." *Statutes at Large*, Vol. XVIII, Pt. III, p. 477.

⁷ *Foreign Relations of the United States, 1888*, p. 251.

⁸ *Ibid.*, p. 252.

⁹ *Ibid.*, 1888, Pt. I, p. 473.

tained by the foreign office at Washington had probably come as the result of an article which appeared in the Danish paper *Morgenbladet*. From this it appeared that two notorious swindlers had been released from prison on the condition that they go to the United States. So far as Anderson was able to learn the following were the facts in the case. Two men, Salomansen and Riemenschneider, were engaged in the business of book publishing. Being hard pressed for cash, Riemenschneider, who was an expert engraver, had made several Danish 1000 kroner notes. The fraud was detected and both men convicted of counterfeiting and sentenced to serve a term in the penitentiary. Some time before the expiration of their terms both had been offered their freedom on the condition that they leave the country forever. Salomansen declined the offer, and was still serving his term, while Riemenschneider accepted and went to the United States. It was impossible to tell which way he had gone. Some rumors had it that he had been sent by one of the *Thingvalla* steamers while others claimed that he had left by way of Hamburg or England. At any rate it was quite certain that he had gone to the United States, probably under an assumed name.

Anderson also stated that during the previous winter he had heard of paupers being shipped out of the country. Some of the poor-house boards seemed to think that that was the cheapest way to get rid of some of their paupers. He added that it was the custom in many European countries to pardon convicts on the condition that they leave the country, but it was left to the convict where he would go. Although this was a reprehensible practice, it seemed that, if the governments would not desist, the United States would have to be more rigid in her immigrant inspection.¹⁰

There can be no question but that Anderson was right in charging that other European governments aided their convicts to go to the United States. We have already seen that this was so in Germany. The same thing was true in regard to France.¹¹ and it is clear from the correspondence

¹⁰ *Ibid.*, pp. 476-477.

¹¹ *Ibid.*, 1887, p. 350; 1888, Pt. I, pp. 506-507.

between Secretary of State T. F. Bayard and Rufus Magee, our representative at Stockholm in 1886, that the same practice existed in the kingdoms of Sweden and Norway.¹² The assistance was given, as shown by the German, Danish and Swedish correspondence, by organizations formed for that purpose. While the central governments in these countries were declaring that they were not aware of the practice and were anxious to assist in preventing it, yet it seems clear that the work of those organizations, as well as the action of poor-house boards and prison officials, could not have gone on without the knowledge of the higher government officials. France was more honest than the rest. She acknowledged that the practice had been carried on, and when the United States remonstrated with her, she gave orders to stop it.¹³

2. *The Problem of Extradition.*

While the United States insisted that she did not want Danish convicts, nor those of any other foreign nation, she also insisted on taking care of her own criminals. In 1878 Secretary of State Evarts wrote to M. J. Cramer at Copenhagen that we had extradition treaties with all the European nations except five, and that Denmark was one of these. Her peculiar location with her excellent shipping facilities made it especially desirable that treaty relations should exist on that subject, as she might otherwise become a rendezvous for American criminals. Cramer was instructed to sound the Danish government on the subject and to find out her attitude in regard to the matter. He enclosed copies of two treaties recently made with other governments, which might be used as models. If Cramer should find that Denmark's attitude was favorable, the necessary power and instructions would be sent to him for negotiating the treaty.¹⁴

Upon inquiry the Danish Minister of Foreign Affairs was found to be favorably inclined towards the proposal. He stated that he had an "*a priori* willingness." Having been

¹² *Ibid.*, 1886, pp. 840-844.

¹³ *Ibid.*, 1888, Pt. I, pp. 506-507.

¹⁴ *Ibid.*, 1879, p. 306.

given the two models the minister took up the matter with the other members of the cabinet. He later reported to Cramer that Denmark would be willing to make a treaty with the United States on the subject of extradition but it would have to differ from the models in three respects:

"First. An increase in the list of crimes, especially under the head of forgery, but without specifying any particular crimes;

"Second. To have criminals provisionally arrested by telegraphic orders to the consuls at the ports where such fugitives may be supposed to land; and

"Third. The curtailment of expense connected with the arrest and delivery of fugitives."

Our government suggested to Cramer that he work out a treaty following the models of Denmark's treaty with Great Britain and our treaty with Spain of 1877 on the same subject.¹⁵ When he and the Danish officials had come to an agreement, he would be given power to sign it.¹⁶ The two parties, however, were unable to agree on the terms. The President reported to Congress in 1880. "The attempt to negotiate a treaty of extradition with Denmark failed on account of the objection of the Danish Government to the usual clause providing that each nation should pay the expense of the arrest of the person whose extradition it asks."¹⁷

Some years later an incident happened which made clear to both nations the value of a treaty of extradition. In the fall of 1887 two men, known as John D. Pomeroy and William B. Franks arrived at Copenhagen. Pomeroy stated that his home was in Montreal while Franks claimed Victoria, British Columbia, as his place of residence. They made people believe that they were cattle buyers who had come to Denmark for pleasure. As the two men did not act like cattle men, the police became suspicious. Later two scrap-books were found in their possession which contained a large number of clippings relating to a "Benson" case. This was

¹⁵ For text of the treaty with Spain, see W. M. Malloy, *Treaties, etc.*, Vol. II, p. 1665.

¹⁶ *Foreign Relations of the United States*, 1879, p. 310.

¹⁷ J. D. Richardson, *op. cit.*, Vol. VII, p. 609

brought to the notice of the American minister, R. B. Anderson. Upon further investigation, after the two men were arrested, it was found that John D. Pomeroy was really John A. Benson, a contractor from California, who was under indictment for conspiracy and fraud. He had forged government documents to secure extensive land grants. William B. Franks was a brother of Benson who had accompanied him as a companion. Personally he was not a criminal except as an accessory after the fact. Minister Anderson immediately inquired of the United States government whether Benson was wanted, stating that Denmark was willing to extradite him even in the absence of a treaty. The answer of our government was in the affirmative, but to the message was added: "Department assumes that Denmark extradites without treaty. It should be understood that under our system the United States can only extradite when there is a treaty."¹⁸ Later, when Secretary Bayard sent the documents needed for extradition to Anderson, he stated that the extradition was to be asked as a courtesy of the Danish government, which on account of existing laws we could not reciprocate.¹⁹

As no indictment existed against the brother of Benson, he was soon released and sent to the United States on the S. S. *Thingvalla*. United States Marshal J. C. Franks of San Francisco was sent to Denmark to take John A. Benson and all the papers found in his possession into custody. He left with his prisoner by way of Bremen on January 30, 1888, on the S. S. *Lahn*. Before leaving Copenhagen Franks asked the Danish authorities to allow a Danish police officer to accompany him to Bremen. This request was not granted as Denmark feared complications with Germany, the laws of which country prohibited a foreign nation from transporting a prisoner through its territory without first obtaining permission. An officer, however, was detailed to accompany him to the German border. The American consul Loening at Bremen was notified to assist Marshal Franks on German soil.²⁰

¹⁸ *Foreign Relations of the United States, 1888, Pt. I*, pp. 479-480.

¹⁹ *Ibid.*, p. 481.

²⁰ For the facts of the Benson case, see *ibid.*, pp. 479-483.

It is hardly possible to say that this case caused the two powers finally to agree on the terms of an extradition treaty. It may, however, have had its influence. But even if this case had not come up, it would have been clear to both powers that such a treaty should exist. During the early part of Roosevelt's first administration, Secretary John Hay succeeded in concluding a treaty with Constantin Brun, the Danish Envoy Extraordinary and Minister Plenipotentiary at Washington. This was proclaimed in force on April 17, 1902. It is very much like the treaty with Spain of 1877 formerly mentioned. The rock upon which treaty negotiations of 1879-1880 split was here eliminated by including in Article XI a provision to the effect that the expenses of extradition should be borne by the state asking the extradition. "Provided, that the demanding government shall not be compelled to bear any expense for the services of such public officers . . . as receive a fixed salary; and Provided, that the charge for services of such public officers as receive only fees or perquisites shall not exceed their customary fees for the acts or services performed by them had such acts or services been performed in ordinary criminal proceedings under the law of the country of which they are officers."²¹

In 1905 a supplement was made to this treaty, in which it was provided that, in case the fugitive should be found in the island possessions of the contracting parties, located in America, the extradition papers might be executed by the chief executive of the islands. In case the fugitive should be found in island possessions not in America, the application for extradition should be made through the diplomatic channels. The list of crimes for which extradition might be demanded was also enlarged.²²

²¹ For the text of the treaty, see W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 390-394; *Statutes at Large*, Vol. XXXII, Pt. II, 1906-1913. This is bi-lingual.

²² For the text of the supplementary treaty, signed by Elihu Root and Constantin Brun, see W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 395-396. For a bi-lingual copy, see *Statutes at Large*, Vol. XXXIV, Pt. III, pp. 2887-2889.

3. *The Negotiation of Minor Treaties.*

For the sake of facilitating the passage of mail between the United States and Denmark a postal convention was negotiated between the nations in 1871.²³ When in 1873 Denmark changed her coinage to the present decimal system, a new schedule of postal rates was worked out, which went into effect in 1874.²⁴ That same year Denmark and the United States were both signatories to the "General Postal Union" treaty signed at Berne, Switzerland, on October 9, 1874.²⁵ The following year a weights and measures convention was negotiated by the United States with several nations, Denmark being one of these.²⁶ A mutual and reciprocal agreement for the exemption of vessels from readmeasurements was made in February 1886.²⁷ Each nation agreed to recognize the tonnage stated in the certificate of registry of vessels entering its ports under the flag of the other nation. The purpose of this arrangement was to save a great deal of unnecessary labor in measuring each vessel as it entered, the result of which would usually be found to be the same as stated in the registry.

On account of the favorable reputation of American goods in Denmark, many countries sold their goods to Danish merchants who in turn resold them to the public as American goods. This was reported by Michael J. Cramer as early as 1879. He proposed that the United States should have conventions with other nations to protect American trade-marks. On the other hand, the United States sold large quantities of butter to Denmark; and Danish buttermakers would "rework" and "repack" this butter and sell it to England. Because of the great reputation of Danish butter the Danish merchants would receive twice the price they had paid for it. This practice could not be stopped because American trade-marks were not protected in Denmark.²⁸ As

²³ *Statutes at Large*, Vol. XVII, pp. 903-916.

²⁴ *Ibid.*, Vol. XVIII, Pt. III, p. 832.

²⁵ *Ibid.*, Vol. XIX, pp. 577, 589.

²⁶ *Ibid.*, Vol. XX, p. 709.

²⁷ W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 386-387.

²⁸ *Foreign Relations of the United States, 1879*, pp. 303-308.

the Danish buttermakers were the masters of the world in their trade, our representatives in Denmark urged the United States to secure Danish buttermakers to teach the Americans how to make better butter.²⁹

The disregard of American trade-marks in Denmark finally brought our government to realize that a treaty should be made to protect our goods. Such a treaty was concluded by Clark E. Carr and the Danish Minister of Foreign Affairs, Reedtz-Thott, on June 15, 1892. It provided for the reciprocal protection of trade-marks and trade-labels. The conditions were that the extent of time on these should be the same as in the country of their origin, and that the formalities for filing should be the same as the law provided for domestic trade-marks.³⁰ Thus if an American manufacturer wanted to protect an article under his trade-mark, he would file the trade-mark with the Danish government in the same fashion as a Danish manufacturer.

By an act of Congress of March 3, 1891, the President of the United States was authorized to extend the benefits of our copyright laws to foreign publications, provided, the nation of the author gave substantially the same protection to American publications. As Denmark extended such privileges to the productions of American authors, reciprocity in copyrights was proclaimed in May, 1893, by President Cleveland.³¹

4. *Diplomacy Concerning Trade.*

a. The Interpretation of "the Most Favored Nations" Clause.

By a law of Congress of June 26, 1884, Section XIV, a tonnage duty of six cents per ton, not to exceed thirty cents per ton for any one year, was levied on vessels entering the United States from foreign ports. By the same section provision was made that vessels which entered our ports from Central America, the West India Islands, Bermuda, New-

²⁹ *Ibid.*, 1877, Appendix, pp. 33-36.

³⁰ Wm. M. Malloy, *Treaties, etc.*, Vol. I, p. 389.

³¹ J. D. Richardson, *op. cit.*, Vol. IX, pp. 395, 443; *Statutes at Large*, Vol. XXVIII, p. 1219.

foundland, and a few other places should only pay a tonnage of three cents per ton, not to exceed fifteen cents for any year. By the most favored nations clause in Article 1 of the Danish American treaty of 1826 it was agreed that neither nation should grant any favors to a third power which should not immediately become common to the other party.³²

On the basis of these facts, P. Lövenörn of the Royal Danish Legation wrote Secretary Bayard in August, 1885, that Denmark claimed the right of having tonnage duties on her vessels entering United States ports reduced from six to three cents.³³ After some delay an answer was received from the Secretary of State stating that, since several other nations had made similar claims, the matter had been referred to the Attorney-General, who had made the ruling that the law was geographical in its character. Its benefits might become operative on any vessel of any nation plying between the privileged regions and the United States. The treaty and the act of Congress would not warrant a reduction of tonnage dues on vessels clearing from ports in Denmark for the United States, but Danish vessels taking part in the trade mentioned in the Act of June 26, 1884, would be benefited by its provisions.³⁴ As no further correspondence ensued on the subject it is probable that the Danish government acquiesced in the position of the Attorney-General.

Upon inquiry by Secretary Bayard through the American minister at Copenhagen, R. B. Anderson, in regard to the treatment of American vessels in the Danish ports, it was learned in a reply from Baron Rosenörn-Lehn in February, 1888, that United States vessels were treated exactly like Danish vessels. Denmark would even be willing to open the coasting trade to the United States on the basis of reciprocity, the trade with Greenland excepted since all trade with this Danish colony was reserved exclusively to the crown.³⁵ It was thus evident that Denmark was extending

³² For the Act of Congress of June 26, 1884, see *Statutes at Large*, Vol. XXIII, pp. 53-60, 841-843.

³³ *Foreign Relations of the United States, 1885*, pp. 362-363.

³⁴ *Ibid.*, p. 363.

³⁵ *Ibid.*, 1888, Pt. I, pp. 484-485.

the advantages of the most favored nations clause to citizens of the United States.

In a treaty between the United States and Hawaii of January 30, 1875,²⁶ it was arranged that sugar from the Hawaiian Islands should be allowed to enter the United States free of duty. A suit based on this clause was decided in the United States Supreme Court in 1887. The court in this case, known as *Bartram vs. Robertson*, decided that, since Hawaii extended favors to the United States in the treaty of 1875, the situation was in reality one of reciprocity. The favor to Hawaii was thus extended for a compensation. When similar compensation should be made by Denmark, Danish sugar from St. Croix might enter free of duty.²⁷

By a law of August 3, 1882, Congress levied a tax of fifty cents on each immigrant "who shall come by steam or sail vessel from a foreign port within the United States." From the wording quoted it is evident that the tax did not apply to anyone coming across the border from Canada or Mexico. This constituted a privilege to those two countries, according to the Thingvalla Steamship Line. On the basis of the most favored nations clause this firm claimed exemption from the tax and brought suit to recover money that had been paid as head tax on passengers on the *S. S. Geyser*. The case came up in the Court of Claims. In the opinion delivered by Justice Richardson no denial was made in regard to the claim made by the Danish firm that by the law a privilege was extended to Canada and Mexico. He claimed, however, that Denmark could not obtain redress because the act of 1882 was later than the treaty with Denmark. If Congress saw fit to enact a law the provisions of which were contrary to an existing treaty that was its privilege and the act must prevail in the courts of the country.²⁸

²⁶ W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 915-917.

²⁷ *Bartram vs. Robertson*, 122 *United States*, 116-121. For another decision following the same reasoning, see *Whitney vs. Robertson*, 124 *United States*, 190.

²⁸ For the Immigration Act of 1882, see *Statutes at Large*, Vol. XXII, pp. 214-215; for the decision, see *Thingvalla Line vs. United States*, 24 *Court of Claims*, 255-264.

It seems unfair that, when a treaty has been made between two nations, thus forming a contract, one of the nations should annul a portion of the contract by passing a municipal law. The most favored nations clause as it appears in most of the United States treaties is based on reciprocity. This is at any rate true of the treaty of 1826 with Denmark. When Congress passes a law which conflicts with the provisions of existing treaties she thereby abrogates part of the treaty. Yet this is the practice that our government is following. Says J. P. Hall of the University of Wisconsin: "Where an act of the Congress of the United States conflicts with a prior treaty provision, the courts will give preference to the act of Congress, for it is not for courts to interfere if the government sees fit to ignore the treaty into which it has entered."³⁹ This is in agreement with other writers on international law⁴⁰ and in harmony with the action of the Supreme Court.⁴¹

b. The Problem of American Pork and Meat.

As early as 1883 the German empire tried to persuade the Danish government to stop the importation of American pork. Germany objected to the Danish American pork trade, as it seems, because a great part of the more than five million dollars worth of pork exported to Germany was not the product of Danish grain-fed, but of American corn-fed, hogs. The American product was shipped to Denmark where it was treated by experts, repacked and shipped to Germany as Danish pork. This was before the trade-mark and trade-label convention had been concluded between the United States and Denmark. Germany threatened to cut off all trade in pork with Denmark if she did not stop buying the American product.⁴²

This anti-American movement was renewed in 1887 with much vigor. Germany claimed that several cases of trichinosis discovered in Hamburg had been caused by eating pork im-

³⁹ James P. Hall, *Constitutional Law*, pp. 62-63.

⁴⁰ Charles H. Butler, *The Treaty-Making Power in the United States*, Vol. I, pp. 400-401, note.

⁴¹ *Bottiller vs. Dominguez*, 130 *United States*, 238.

⁴² *Foreign Relations of the United States, 1883*, p. 252.

ported from Denmark and claimed to have been an American article. This claim, seems, however, to have been poorly founded as no case of trichinosis had appeared in Denmark for two and a half years. Minister Anderson claimed that the reason the Germans contracted the disease was because they ate the pork raw while the Danes cooked it thoroughly before eating.⁴³

Germany continued to press the issue with the Danish government. Although the Director General for the Danish foreign office had stated that Denmark would not exclude American pork, yet Anderson felt she might have to do so in order to retain her excellent German market.⁴⁴ Unfortunately at this time the "pork plague" (probably the hog cholera, or the hoof and mouth disease) started to rage in Denmark and other European countries. The Germans were busy spreading the report that the epidemic had come from America. The theory used "most vigorously" in explaining how the disease had been conveyed to Europe was to the effect that the wooden containers in which the American pork products were shipped contained the germs. Later, when this lumber was used for building purposes, the European hogs had been exposed to the contagion. However absurd this theory may be, it found a large number of adherents.⁴⁵

This condition and the German influence finally caused the Danish Government on March 10, 1888, to issue an order prohibiting the importation of raw hog products from the United States until further notice.⁴⁶ This order remained in force till 1891 when our minister, Clark E. Carr, succeeded in getting the Danish government to revoke it, by promising that a rigid inspection of all meat products from America would be carried on.⁴⁷

For some time following this arrangement Denmark allowed the importation of meat products from America. In

⁴³ *Ibid.*, 1888, Pt. I, pp. 475-476.

⁴⁴ *Ibid.*, pp. 478-479.

⁴⁵ *Ibid.*, pp. 478, 480-481, 483.

⁴⁶ *Ibid.*, p. 486.

⁴⁷ *Ibid.*, 1891, pp. 487-488.

August, 1894, the Wilson-Gorman tariff was passed, which provided for a duty of forty per cent *ad val.* on sugar imported into the United States and an additional tariff of one-eighth and one-tenth of one per cent per pound on sugar imported from countries where a bonus was paid, either directly or indirectly, for the exportation of the article.⁴⁸ It seems that "in the nature of a retaliation for the tariff imposed on her sugar," Germany in November of that year prohibited the importation of American cattle and meat. As has been shown before, Germany would be liable to get these products through Denmark, unless the importation to that country could also be stopped. Just what pressure she brought to bear on her small neighbor to the north we cannot say, but judging from her earlier action and the statements made later by our representative in Denmark, it was a case of threat.⁴⁹

Shortly after Germany's action, the Danish minister of the interior published an order in the official government newspaper, *Berlinske Tidende*, prohibiting the importation of live cattle (*Kvæg*) and fresh meat from America. The order stated that the reason for the prohibition was to avoid the spread of the "Texas fever, now prevailing in America." When this matter was called to the attention of the Danish foreign office, Vedel, the Director-General, acknowledged that he was not aware that such a condition existed in America, but stated that matters of that kind were left to the Minister of the Interior. The fact that Vedel admitted that he did not know of the existence of the "Texas fever" in America lends further weight to the suspicion that the order was originally "made in Germany."⁵⁰

Our representative at Copenhagen, John E. Risley, called the attention of the Danish government to the fact that the order used the word *Kvæg*, which in the Danish language means not only horned cattle but also hogs and sheep. The

⁴⁸ *Statutes at Large*, Vol. XXVIII, p. 521. For the whole act. *ibid.*, pp. 509-570.

⁴⁹ *Foreign Relations of the United States, 1894*, pp. 205-206; *ibid.*, 1895, Pt. I, p. 212.

⁵⁰ *Ibid.*

Minister of Foreign Affairs, Reedtz-Thott, explained that, while it was true that the word *Kvæg* was used in the order, the Minister of the Interior had promised him that it would be interpreted as if the word *Hornkvæg* had been used; thus the products of hog and sheep might be freely imported, as well as hermetically sealed canned meats. In October, 1895, Risley handed to the Minister of Foreign Affairs a copy of the law of March 2, 1895, which dealt with the handling and inspection of cattle and meat, as well as a copy of the rules and regulations of the Department of Agriculture, and requested that the restrictions be removed entirely. He pointed out that the American system of inspection was so well organized and carried into effect that there was no reason for Denmark to fear that unfit products would be shipped out. When Reedtz-Thott had conferred with the Minister of the Interior on the subject, he reported to Risley that, so long as Germany retained her present attitude on the subject, it would be impossible for Denmark to revoke the prohibitive order. At the end of the century the order was still in force.⁵¹

c. American Aid to Danish Interests in China.

In 1874 J. Hegerman-Lindencrone, the Danish Minister at Washington, appealed to Hamilton Fish in behalf of the Great Northern Telegraph Company of Copenhagen. This firm had obtained permission from the Chinese government to build a telegraph line from Woosung to Shanghai. The local magistrates objected to the existence of the line and caused considerable trouble. Denmark therefore asked the United States to use her influence with China so that the work might be completed.

Secretary Fish promised that he would have our representative to China look into the matter and make a report. Fish also used the opportunity to remind the Danish representative that in 1869 the United States had proposed a telegraphic convention to Denmark⁵² but had never received

⁵¹ *Ibid.*, 1895, pp. 210-213. For the law of March 2, 1895, see *Statutes at Large*, Vol. XXVIII, pp. 727-738.

⁵² The communication is not published.

a reply. The Danish government later replied to this that she had sent an answer in May, 1870;⁵³ but the communication, it would seem, failed to reach the American government.

Our representative to China, S. Wells Williams, took up the matter of the Danish telegraph line with the Chinese government. It appears that the Chinese merchants were anxious to have the line built but the government officials of the province were prejudiced against it. They finally acquiesced and the line was completed. Said Williams in reporting to the State Department: "A good thing is always its own best argument and vindicator." The Danish government extended due thanks for the service rendered.⁵⁴

d. The Petroleum Test Bill.

As the result of a lecture given before the Insurance Companies' Union at Copenhagen, the Danish ministry of justice caused the Polytechnic Institute to make various experiments with kerosene. Based on these experiments, this institution recommended that petroleum which gave off ignitable vapors at a temperature lower than 23° Celsius under a barometric pressure of 760 m. m. should not be sold to the public unless marked as explosives. The current standard was 40° Celsius under the pressure mentioned. This recommendation was embodied in a bill and laid before the Danish *Rigsdag* in 1887. If the bill should pass, it would be a severe blow to American petroleum and a move very favorable to the Russian product.

The State Department instructed R. B. Anderson to do what he could through diplomacy to prevent "unfriendly discrimination against our commerce." On account of political troubles in Denmark, peculiar to her government at that time, the petroleum bill hung fire for a long time, and finally was amended in a way more favorable to the United States. It failed to become a law in the session of the 1887-1888 *Rigsdag*. From the fact that we hear nothing more about

⁵³ It does not appear what the answer was.

⁵⁴ *Foreign Relations of the United States, 1874*, pp. 378-383. For our correspondence with China about this matter, see *ibid.*, pp. 246-249.

it in the diplomatic correspondence, it is likely that nothing further was done about the matter.⁵⁵

e. The Sugar Tariff.

The Wilson-Gorman tariff act of 1894, as noted above, levied an extra duty on all sugar imported from countries where bounties were paid for exportation. Denmark taxed the manufacture of beet sugar, but in case the sugar was later exported the tax was refunded. Because of this the United States put her on the list with those which gave bounties for exportation. Count F. Reventlow, the Danish representative at Washington, remonstrated against this and explained that the Danish system was not the giving of bounties but simply exemption from a domestic tax. There was only one exception to this, namely, on sugar darker than the Amsterdam standard No. 19. On this kind of sugar there was a manufacturer's tax of 2.25 öre per pound. One hundred pounds of this sugar would through the refining process produce eighty pounds of granulated sugar (*melis*), ten pounds of brown sugar (*farin*), and seven pounds of molasses (*sirup*), while three pounds were lost through evaporation. In case these products were exported, the government refunded 2 kroner and 40 öre on the eighty pounds of *melis*, 22½ öre on the ten pounds of *farin*, and 7 öre on the seven pounds of *sirup*, a total of 2 kroner and 69½ öre. Deducting the tax of 2 kroner and 25 öre, there would remain a bounty of 44½ öre for each one hundred pounds, or 0.556 öre each per pound of *melis*. Even this bounty, as a matter of fact, did not enter into the sugar trade between Denmark and the United States, because nearly all the sugar sold direct from Denmark was unrefined. During the years 1889-1893, no refined sugar had been exported for American consumption, although 2,660 pounds had been shipped for consumption on board of the vessels in which it was shipped. In the Danish West Indies no bounty system of any kind existed as there were no refineries there. Under those circumstances, Count Reventlow asked in behalf of the Danish government

⁵⁵ *Ibid.*, 1888, Pt. I, pp. 472-475, 486, 487.

that Denmark be struck off the list of countries offering export bounties on sugar.⁵⁶

Secretary of State, W. Q. Gresham, answered Count Reventlow by stating that a bill was before Congress providing for the repeal of the differential duty. As soon as more definite rules were made on the subject he would communicate them to him. Shortly after, Acting Secretary, Edwin F. Uhl, informed Reventlow that the Secretary of the Treasury had ruled that, in view of the explanation of the Danish bounty system, the collectors of the department had been given orders to tax only those sugars from Denmark proper upon which bounties were actually paid when they were exported.⁵⁷

5. *Arbitration of the Butterfield Claims.*

The leading facts connected with the origin of this case have been stated in Chapter IV. The claim for \$301,814.08, with accruing interest till the date of payment, was laid before the Danish government in June, 1860. Hall, the Minister of Foreign Affairs, registered the objections of his government in a note of August 10, 1860. He argued that, since there had been a delay of nearly six years in presenting the claims, it would now be very difficult to substantiate the facts in the case. He also called attention to the letter of Helm, dated October 19, 1854, in which he approved the action of Governor H. H. Berg in requiring a bond as guarantee that no hostile act would be committed, and especially to the remark in the same letter that whatever may have been the destination of the vessel at the outset, he was able to give assurance "that there is now no hostile intention on the part of the owners or agents of these vessels towards any government or nation whatever."⁵⁸ This remark by Helm recognized Governor Berg's motive as fair, which was to discharge his duty and prevent a hostile

⁵⁶ *Foreign Relations of the United States, 1895*, Pt. I, pp. 205-206.

⁵⁷ *Ibid.*, pp. 206-207. For the Wilson-Gorman Tariff Act, see *Statutes at Large*, Vol. XXVIII, pp. 509-570. For the tariff on sugar, Schedule E, p. 521.

⁵⁸ For the text of Helm's letter, see *Executive Documents*, 45 Cong., 3 Sess., Vol. XVI, Doc. 33, pp. 21-22.

expedition from being aided in Danish territory when it was directed against a friendly state. In regard to the firing on the *Benjamin Franklin*, he needed only to say that the Secretary of State, Wm. L. Marcy, had by his action recognized that the incident had "arisen out of negligence on the part of the captain of the vessel." Since therefore all the measures the Danish government had taken were legal and necessary, the government of the United States could not hold her responsible for damages.

On account of the outbreak of the Civil War the case was allowed to be temporarily forgotten. When the war was ended, William H. Seward in May, 1866, urged the claim on the Danish government and offered an explanation in regard to the delay. The first delay had been occasioned by Pickett and the later delay by Soulé, both men being somewhat slow in getting the necessary documents together. There was, however, less than four years between the date of ascertaining the final amount of the damages and the date the claim on which was put before the Danish foreign office.⁵⁹

The argument in favor of the claims was presented to the American representative in Denmark through Seward by Lewis and Cox, the attorneys for the claimants. When George H. Yeaman put the facts before the Danish government he pointed out that there was no statute of limitation between nations as between individuals. Said Yeaman: "It will not be overlooked by His Majesty's Government that it once, after a lapse of more than twenty years from the commission of the acts complained of, made honorable satisfaction of claims preferred by the Government of the United States in behalf of citizens injured by those acts."⁶⁰ The fact that William L. Marcy had said nothing more about the case, after he had presented the matter to Torben Bille and received his reply in 1856, did not mean that the case was dropped, so far as the claims for damages was concerned, for no claims had been presented to Bille. In regard to Helm's statement, mentioned by Hall, he observed that it should

⁵⁹ *Ibid.*, pp. 60-65.

⁶⁰ *Ibid.*, p. 67.

not be construed to mean that the United States recognized the vessels as having had an original criminal intent. On the contrary, an investigation had been held which cleared them of such suspicion. If Helm's statement was taken to prove that the vessels had been under suspicion, it must also be taken to prove that such suspicion no longer existed. In international affairs a suspicion did not constitute ground for action. Recently a great European power had not deemed it sufficient reason to detain a vessel even after much proof had been presented that the vessel was being built for a purpose hostile to the United States. As Denmark was a nation especially interested in the just observance of international maritime law, it was hoped that she would not disregard the justice of this claim.⁶¹

The Danish Minister of Foreign Affairs, Count E. Juelwind Frijs, to whom Yeaman's letter was addressed, returned a vigorous answer four months later, declaring that the claim was outlawed "by the sole fact that it had not been insisted upon in due time (*qu'on omis de la faire valoir en temps utile*).'' But whatever might be said in regard to the statute of limitation he affirmed that there was another fact of greater importance: Denmark was unwilling to recognize the justice of the claims. She had had a duty to perform towards Venezuela as well as towards the United States. The vessels were suspected not only by Venezuela and the authorities of the Danish West Indies, but also by the United States government, a fact proved by the inquiry which had been held before the *Catharine Augusta* left New York. The fact that the American government had "discharged the sequestration" was no reason why the authorities at St. Thomas should hold them innocent, for each state was responsible for its own action and must therefore take its own precaution. Referring to Yeaman's allusion to England's attitude toward the building of Confederate cruisers, Count Frijs used a pleasant but effective wit, when he observed: "that the unfavorable reception which that tolerance of the Government of Her Britannic Majesty has found in the Northern States and

⁶¹ *Ibid.*, pp. 66-71.

the steps taken by the government of the United States to prevent England from proceeding in a similar manner in the future, seem to indicate that the Cabinet at Washington have not been very well satisfied with the great liberty allowed to the above mentioned ships." In closing he expressed the hope that the United States might understand the unfairness of the claims presented and hence pursue the matter no further.⁶²

In the summer of 1869 the United States took up the case again. The new Secretary of State, Hamilton Fish, communicated with the Danish *chargé d'affaires* at Washington, F. de Bille, stating that, since the matter had been presented twice to the Danish government and each time rejected, the matter had taken such form that either one of the nations would have to give in or else the matter should be submitted to arbitration. He therefore proposed that the matter be referred to the British or Russian minister at Washington and that his decision should be deemed binding.⁶³

De Bille promised to put the proposition before his government but it appears that no answer was received. In April 1874, J. C. B. Davis, Acting Secretary of State, instructed Michael J. Cramer to put the matter before the Danish government again.⁶⁴ When these instructions were carried out, the Danish Minister of Foreign Affairs, Rosenørn-Lehn, stated that he was very sorry that the United States had presented the matter again, and that he hoped the proposal for arbitration might be withdrawn. Through J. Hegermann-Lindenerone, the Danish representative at Washington, a formal request was made of the government for the withdrawal of the proposal for arbitration. Four reasons were given. First, too long a time had elapsed since the occurrence of events which had given rise to the claims. Second, many of the men connected with the events were now dead, for example, Feddersen, Berg, Castonier and others. Those who were still living could no longer remember the details. Third, the American officials, and especially Helm, had agreed that

⁶² *Ibid.*, pp. 72-74.

⁶³ *Ibid.*, p. 75.

⁶⁴ *Ibid.*, pp. 75-76.

the laws of neutrality should be guarded to the satisfaction of the Danish authorities; and as soon as satisfactory proof had been presented that the cargo of the *Catharine Augusta* had a lawful destination, it was released. Secretary Marcy had admitted that the shot fired at the *Benjamin Franklin* was occasioned by the negligence of the captain. No disrespect had been shown at the time to the American flag because the *Benjamin Franklin* was flying the British colors. Fourth, every time the Danish government in the past had presented the whole case in its true light, it had been dropped for a while; it was not fair to continue to revive the case. It was contended that as long as there was no true claim there was nothing to arbitrate. De Bille pointed out that Venezuela was in the same situation in which the United States government found itself a few years later. A rebellion had broken out within her borders and her representatives urged upon the Danish government at St. Thomas, as the United States did upon England, not to give aid to the rebels. Since the United States government had successfully demanded damages from England on account of the *Alabama*, it was unfair to hold that the Danish government should have taken the same stand towards Venezuela that England did to the United States.⁶⁵

Hamilton Fish answered the Danish government through Michael J. Cramer in a memorandum forwarded soon after the receipt of Hegermann-Lindenerone's communication. The note which was brief and pointed contained the following arguments in favor of the claims. First, the question of time was not pertinent as a statute of limitation did not obtain between nations. Second, the periodic presentation of the claims was caused by circumstances and could therefore not be held to invalidate them. Third, the facts in the case were well established, so that it was of no consequence that witnesses could not be called. Fourth, admissions by any American officials could not alter the facts in the case. Fifth, as a belligerent could not capture arms and ammunition from an enemy in a neutral port, he could not ask a neutral to do it

⁶⁵ *Ibid.*, pp. 80-84.

for him.⁶⁶ Cramer sent the memorandum of Hamilton Fish to Baron O. D. de Rosenörn-Lehn on August 15, 1874,⁶⁷ but it does not appear that a reply was ever received from the Danish government.

Several years passed during which no mention was made of the Butterfield Claims. On May 25, 1878, the House of Representatives passed a resolution requesting the Secretary of State to furnish it with a statement and the documents concerning the claims.⁶⁸ These were transmitted by the President in January, 1879.⁶⁹ It does not appear, however, that anything was done at that time, and for nearly a decade the case was forgotten.

What occurred to bring up the case again cannot be related here as the documents have not been published; but in 1888 the question of arbitrating the Butterfield claims was taken up in Copenhagen by Rasmus B. Anderson, Minister Resident of the United States. He succeeded in getting Denmark to agree to arbitration. A convention, concluded December 6, 1888, was ratified by our Senate the next year in May. It provided in its first article that the claims should be referred to Sir Edmund Monson, the British representative at Athens, as sole arbitrator. The second article provided that duly certified copies of all documents connected with the case should be furnished by each government to the arbitrator and that duplicates of the copies presented to him should be presented to the other government. The time for filing the documents with the arbitrator should be limited to seventy days from the day the government received notification of his acceptance. The expenses, according to the third article, should be shared equally by the two governments. The fourth article provided that the two governments should abide by the decision of the arbitrator and perform his decree without delay. The fifth and last article provided for the ratification of the convention.⁷⁰

⁶⁶ *Ibid.*, pp. 85-86.

⁶⁷ *Ibid.*, p. 87.

⁶⁸ *Congressional Record*, 45 Cong., 2 Sess., Vol. VII, Pt. IV, p. 3792.

⁶⁹ J. D. Richardson, *op. cit.*, Vol. VII, p. 510.

⁷⁰ For text of the treaty, see W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 387-388.

Sir Edmund Monson accepted the position as arbitrator.⁷¹ On January 22, 1890, he rendered his award, a copy of which was sent to the Secretary of State, James G. Blaine. The arbitrator held that there were no substantial difference in the representation of facts by the two governments. The decision would therefore hinge on the interpretation of those facts. Taking up the contention of the Danish government that a statute of limitation operated between nations as between individuals, the arbitrator held that the lapse of time would not preclude payment if the merits of the case should prove that compensation ought to be made. It might, however, be a just cause for criticism by the Danish government.⁷² In regard to the question whether there were legitimate grounds for suspecting the two vessels, he answered in the affirmative. It was therefore the duty of the Danish authorities to take precautions. As to whether there was reasonable ground to object to the measures taken by the Danish authorities, he observed that the facts in the case did not justify the terms "seizure and detention" used in the American argument. The measures adopted by the authorities of St. Thomas consisted in demanding a "bond of moderate amount" and a personal guarantee that, if the vessel were allowed to be repaired in a Danish port, neither it, nor its cargo, would be used against a nation friendly to Denmark. This was necessary in virtue of the Danish law forbidding the free export of arms. "The ships were in no sense seized nor detained and the precautionary measures . . . were cheerfully acquiesced in by the consignees and the commercial agent of the United States." He therefore held that the

⁷¹ For the correspondence relative to the extension of the invitation to Sir Edmund Monson to become the arbitrator in the case, see *Foreign Relations of the United States, 1889*, pp. 152-158.

⁷² It is interesting to note here that Sir Edmund Monson disagreed on this subject with Henry Wheaton when, in regard to the Bergen prize claims, he stated that a certain time must come when claims become invalid on account of the lapse of time, and that, if a third party were to arbitrate the case, the claims would most likely be held invalid as nearly seventy years had passed since they arose. For Henry Wheaton's argumentation, *vid. sup.* Chapter III, and *Executive Documents*, 28 Cong., 1 Sess., Vol. II, Doc. 264.

measures were reasonable and the United States had no cause for complaint. As to whether the measures had been kept in force too long, he observed that the request to reload the cargo was made on May 7, 1855, and the permission given shortly afterward.⁷³ There is no evidence that clearance might not have been obtained earlier had the plaintiff asked for it. There is therefore no ground to show "that the precautionary measures . . . were maintained longer than was necessary." On the basis of these facts the claims, which were founded on the precautionary measures of the St. Thomas authorities taken toward the *Benjamin Franklin* and the *Catharine Augusta*, were disallowed.

The question of the firing on the *Benjamin Franklin* was then taken up. The arbitrator held that the chartering of this vessel by the British steamship company did not in itself entitle the vessel to enjoy the privilege of the regular steamers of the company to enter or leave at night without special permission. Even steamers under the Danish flag did not enjoy this privilege. "It is clear that the captain of the *Benjamin Franklin* neglected to comply with these formalities, and consequently the Danish Government cannot be fixed with the responsibility of what unfortunately ensued." From all the facts in the case it was clear "that neither in respect to the firing upon the steamship *Benjamin Franklin*, any more than in the treatment of that steamer and of her consort, the *Catherine Augusta*, is any compensation due from the Danish government."⁷⁴

6. *The Mormon Problem.*

During the last seventy years regular waves of Mormon missionary propaganda have swept over Denmark. The first one came in 1850 when two "Apostles," Snow and Dykes, arrived from Utah. Snow made Copenhagen his center of

⁷³ As stated in Chapter IV clearance was given to the two ships May 26, 1855, after the proper documents had been presented to the authorities. *Executive Documents*, 45 Cong., 3 Sess., Vol. XVI, Doc. 33, pp. 63-64.

⁷⁴ For text of the award, see *Foreign Relations of the United States*, 1889, pp. 158-160. See also J. B. Moore, *International Arbitration*, Vol. II, pp. 1185-1207.

activity, while Dykes labored around Aalborg in Jutland.⁷⁵ A few years later the Mormons attempted to establish their work on the island Bornholm.⁷⁶ Many of the converts emigrated from Denmark to Utah because they could there practise their newly-embraced doctrines of polygamy. During the seventies our foreign office inquired of the Danish government what was being done to prevent migration to America for polygamous purposes. The Minister of Foreign Affairs answered that his government was pleased to know that the United States was interested in the problem, as Denmark was powerless in the matter since it was not against Danish law to join the Mormon church. Furthermore there was no legal way to stop emigration which had for its purpose a future state of polygamy, for, according to Danish law, a purpose which had been given no expression was not punishable. Therefore, the only way to put a stop to Danish Mormon emigration was to stop polygamy in Utah,—that would remove the condition which aided the propagation of the Mormon faith in European countries.⁷⁷

In May, 1897, John E. Risley received a petition from C. N. Lund, president of the Scandinavian Mission of the Mormon Church, requesting the intervention of the American representative in behalf of two Mormon missionaries, American citizens, who had been expelled from Denmark because they preached Mormon doctrines. He claimed that they had not preached polygamy and that therefore they had not broken the law of the land. Risley was uncertain how to act, hence he wrote to Washington for instructions. These were sent in July of the same year and were to the effect that, if any doctrines were preached which were contrary to the laws of Denmark, the Mormon missionaries could not expect American protection. If, however, they were "law-abiding and moral teachers, they should have equal treatment with other propagandists."⁷⁸

⁷⁵ Hansen og Olsen, *De Danske Baptisters Historie*, pp. 74, 91.

⁷⁶ *Ibid.*, p. 111.

⁷⁷ *Foreign Relations of the United States, 1880*, pp. 346-347.

⁷⁸ *Ibid.*, 1897, pp. 121-124. It does not appear from the correspondence what Risley did for the Mormons.

In March, 1900, the Mormon question came up again because the Danish government banished two Mormon missionaries. They appealed to Laurits S. Swenson, the American representative at Copenhagen, for protection. He succeeded in getting the foreign office of Denmark to stay the execution of the decree of banishment, which had been issued by the Minister of Justice. An investigation was held concerning the work of the two missionaries, which revealed that they had done nothing contrary to law but had been banished for preaching Mormonism in general. It was shown by several affidavits that polygamy was no longer a tenet of Mormonism. The American minister therefore asked the Danish government to revoke its decree of banishment. He received the reply that, since the United States in 1879 and 1881 had requested Denmark to prevent the migration of Mormons to the United States and since the emigration records showed that a large number of people of the Mormon faith had been migrating to Utah to the detriment of the Danish state, the order could not be revoked. A month's stay of the execution of the decree was, however, granted.⁷⁹

Since 1900 the Mormon question has caused very little trouble as the Danish government has become more liberal on the subject.⁸⁰ Perhaps the fact that polygamy has disappeared in the United States has done its part to remove the problem.

7. *The Status of the American Representative to Denmark.*

Denmark has followed the principle of keeping the rank of her representatives to foreign countries as low as possible. This was generally done for economic reasons. It was the custom of the United States to give a representative to a foreign country the same rank which that nation's representative held in Washington. Consequently our representative at Copenhagen held a rank very low compared with the size of the nation he represented. This was humiliating to our representative for two reasons. Since his rank in the diplomatic service was low, his salary was very small. At a

⁷⁹ *Foreign Relations of the United States, 1900*, pp. 413-422.

⁸⁰ *Ibid.*, 1901, pp. 140-141.

time when the representatives of the larger European nations at Copenhagen were paid \$25,000 a year, our representative received only \$5,000. Unless he was wealthy he was unable to take part in the court affairs and the social functions of the diplomatic corps. On the other hand, our representative felt humiliated when on various official occasions, because of his low rank, he would have to wait till the representatives of very small countries, holding high diplomatic ranks, had finished their business at the foreign office.

During the early part of the nineteenth century our representative in Denmark had held the rank of *chargé d'affaires*. During the seventies he was styled Minister Resident and his salary was \$7500.⁸¹ In the latter part of that decade his rank was changed again to *chargé d'affaires* and his salary reduced to \$5000.⁸² In 1883 the rank was again changed to Minister Resident and the office of Consul-General was added, but the salary continued at \$5000.⁸³ Thus it remained for several years. On account of this condition Rasmus B. Anderson recommended to the foreign office that the rank should be raised to Envoy Extraordinary and Minister Plenipotentiary, that the salary should be raised to \$7500, and that there should be no secretary at the legation.⁸⁴

In spite of this recommendation nothing had been done in 1889 when Anderson left Copenhagen and Clark E. Carr took his place. The new minister found it even harder to get along on the small salary than his predecessor, for he had his family with him while Anderson had left his in the United States.⁸⁵ In 1890 the matter was brought before Congress by Senator John Sherman who was in favor of adopting Anderson's recommendations. Consequently the rank was changed and the salary raised by a law of July 14, 1890, to \$7500.⁸⁶

⁸¹ *Statutes at Large*, Vol. XVIII, Pt. II, p. 67.

⁸² *Ibid.*, Vol. XIX, p. 170.

⁸³ *Ibid.*, Vol. XXII, p. 128.

⁸⁴ *Senate Miscellaneous Documents*, 51 Cong., 1 Sess., Vol. II, Doc. 135, pp. 1, 2.

⁸⁵ *Ibid.*, pp. 3-4.

⁸⁶ *Ibid.*, pp. 5-6; *Statutes at Large*, Vol. XXVI, p. 272; *Congressional Record*, 51 Cong., 1 Sess., Vol. XXI, Pt. VIII, p. 7264. For full record of the bill in Congress see *ibid.*, *Index* p. 428, House Bill 9603.

In 1892 a rumor reached Denmark, that the American legation would be discontinued. Carr informed the Secretary of State that this rumor seriously hampered negotiations with Denmark in regard to the World's Fair.⁸⁷ The rumor, however, was either unfounded or the threat was not carried out. By a law of February 22, 1907, the salary of our representative to Denmark was raised to \$10,000,⁸⁸ at which figure it still remains.⁸⁹

⁸⁷ *Senate Miscellaneous Documents*, 52 Cong., 1 Sess., Vol. V, Doc. 127.

⁸⁸ *Statutes at Large*, Vol. XXXIV, Pt. I, p. 917.

⁸⁹ *Ibid.*, Vol. XL, Pt. I, p. 1326. In 1895 the United States sought and obtained permission from the Danish government for the Peary Relief Expedition to land in Greenland. *Foreign Relations of the United States, 1895*, pp. 207-210. The same year complaints were made through F. Reventlow, the Danish minister at Washington, that American cattle shippers were in the habit of securing Danish citizens as helpers on board the cattle boats and leaving them destitute in foreign ports. Secretary of State Gresham answered that, although the practice was deplorable, nothing could be done to remedy the situation at present because of the lack of appropriate laws under which to prosecute the shippers. *Ibid.*, p. 214.

CHAPTER VII

RECENT RELATIONS BETWEEN THE UNITED STATES AND DENMARK, 1900-1920

The events of the last twenty years are so recent that they have scarcely become history. Were it not for one outstanding incident, this period would be left for the historian of the future. That event is the purchase by the United States of the Danish West Indies in 1916-1917. Before taking up this subject, however, a few minor matters which have occurred during the twentieth century will be mentioned.

1. *Reciprocal Protection of Industrial Designs.*

According to the laws of the United States, industrial designs and models made by aliens residing in another country are protected by our government only when that country extends reciprocity in protecting the designs and models patented in the United States. When the proper conditions exist, the President of the United States is empowered, by proclamation, to extend protection to foreign patents.¹

In accordance with this law the Danish Envoy at Washington, Constantin Brun, notified the State Department on June 8, 1906, that under the law of April 1, 1905, Denmark had granted protection to American industrial designs and models on the basis of reciprocity. He therefore requested that the necessary promulgation be made by the United States and promised that a corresponding promulgation would be made in Denmark.² The promulgations were made in due order, by the United States on June 22, 1906, and by Denmark on August 14, 1906.³

2. *Reciprocal Protection for Trade-Marks in China.*

¹ *Statutes at Large*, Vol. XXXII, Pt. I, pp. 1225-1227, law of March 3, 1903.

² W. M. Malloy, *Treaties, etc.*, Vol. I, p. 396.

³ *Ibid.*, p. 397. For the Danish promulgation in the Danish language, see *ibid.*, p. 398.

A similar arrangement was made in 1904. The Danish government acting through Brun requested the United States to protect Danish trade-marks duly registered in America against infringement by our citizens in China. Reciprocally, the Danish government would protect American trade-marks, duly registered in Denmark, against infringement by Danish citizens in China, by causing violators to be brought before the Danish consular court at Shanghai and punished in accordance with the provisions of the laws of Denmark, dated April 11, 1890, and December 19, 1898, and of the Royal Ordinances, dated September 28, 1894, and September 12, 1902. He also requested that the arrangement be made effective by an exchange of notes.

The State Department responded soon after and expressed its willingness to enter into such an agreement, as we already had similar agreements with other nations. It was pointed out, however, that we had no law making the infringement of a trade-mark a criminal offense, but that effective provisions existed by which damages might be obtained by civil action. The Danish government accepted this condition and instructed its consul at Shanghai to act against violators accordingly. The United States representative at Peking was instructed to inform our consular agents in China to protect the Danish trade-marks in their courts according to the agreement.⁴

3. *Payment of the Samoan Claims.*

In a treaty between the United States, Germany and Great Britain in regard to Samoa, signed November 7, 1899, it was provided (Article III) that claims arising as a result of the warlike operations at Apia should be paid jointly by the United States and Great Britain. Danish subjects presented a claim for \$2700 for the "destruction of live stock, injury to houses, fences, plantations, tanks, and the destruction of furniture and other effects." Two agents were appointed to investigate the claims. C. J. B. Hurst served for Great Britain and R. Newton Crane for the United States. They found that the value of the material destroyed was exaggerated,

⁴ For text of the correspondence on this subject, see W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 399-401.

and on December 6, 1905, rendered a decision that \$1520 should be paid by the two governments.⁵ By a law of January 30, 1906, the share of the United States, amounting to \$760, was allowed to the Danish claimants.⁶

4. *Arbitration Conventions.*

In agreement with Article XIX of the Hague Convention of 1899⁷ to which the United States and Denmark were signatories, an arbitration treaty was concluded at Washington on May 18, 1908, by Acting Secretary Robert Bacon and Constantin Brun. It provided that matters of a legal nature and questions relating to the interpretation of treaties failing to be settled by diplomacy should be referred to the Permanent Court of Arbitration at The Hague, provided they did not involve "the vital interests, the independence, or the honor of the two Contracting States, and do not concern the interests of a third party." It was further agreed that before any case was put before the court a special agreement should be concluded "defining clearly the matter in dispute, the scope of the powers of the arbitrators, and the period to be fixed for the formation of the Arbitral Tribunal and the several stages of the procedure." These preliminary agreements should be satisfied in due form. This convention was to last for a period of five years.⁸ It does not appear that any case ever arose under its provisions.

During the early years of Woodrow Wilson's administration, his Secretary of State, William J. Bryan, concluded a series of conventions "for the advancement of the cause of general peace."⁹ One of these was concluded with Denmark on April 17, 1914, and was signed by Secretary Bryan and Constantin Brun. It provided that disputes which should

⁵ *Senate Documents*, 59 Cong., 1 Sess., Vol. IV, Doc. 160.

⁶ *Statutes at Large*, Vol. XXXIV, Pt. I, p. 635.

For the Samoan treaty, see *ibid.*, Vol. XXXI, pp. 1875-1877.

⁷ W. M. Malloy, *Treaties, etc.*, Vol. II, p. 2023.

⁸ *American Journal of International Law*, October 1908, pp. 335. ff. For text of the treaty, see W. M. Malloy, *Treaties, etc.*, Vol. I, pp. 401-402.

⁹ For the index to Bryan's treaties for the advancement of general peace, see *Statutes at Large*, Vol. XXXVIII, Pt. II, p. 2299.

fail to be adjusted by diplomacy should be submitted to an International Commission of five members. "One member shall be chosen from each country, by the Government thereof; one member shall be chosen by each Government from some third country; the fifth member shall be chosen by common agreement between the two Governments." Neither country should declare war nor begin hostilities while the work of the commission was going on. The two governments pledged themselves to "endeavor to adjust the dispute directly between them upon the basis of the Commission's finding." The treaty was to remain in force for five years and further until twelve months after one of the parties had given notice of its termination.¹⁰

5. *The Purchase of the Danish West Indies.*

The attempt made by President Lincoln and William H. Seward to purchase the islands of St. Thomas and St. John, as noted in Chapter V, ended in failure largely for political reasons. The refusal of the Senate to ratify the treaty, which had originated in this country, left the United States government in a peculiar situation. As the Monroe Doctrine is generally interpreted, the United States would oppose the transfer of the islands to another European country. It was the good fortune of the United States, therefore, that Denmark was not very anxious to get rid of the islands. Had she decided, after the Senate's refusal to ratify the treaty, to transfer the islands to some European power, say Germany, it seems that our government would either have had to acquiesce or change its mind on the question of purchase.

The unsuccessful transaction of the sixties had a peculiar influence on the inhabitants of the islands. The plebiscite had shown that they were all in favor of the transfer. The action of the Senate cruelly disappointed the islanders and left them restless and discontented. They had hoped for much improved conditions under the government of the United States. The people, whether Caucasian or Negro, had very little in common with Denmark. Even the language used was English, although the official language was Danish. Men

¹⁰ *Ibid.*, pp. 1883-1885.

who were far-seeing realized that the purchase of the islands by the United States at some future date was inevitable.¹¹

The question of the transfer of the islands came to the front again and again until the purchase was finally consummated. It was a constant temptation for Denmark to sell the West India possessions because the sale might bring a neat sum of money into the Danish treasury. Added to this was the fact that the islands were a financial burden to the mother country, while both Germany and Great Britain were willing to purchase them and were in every way better equipped to take care of them.

In 1874 a rumor reached the United States that Germany was trying to negotiate a treaty with Denmark by which Danish Schleswig, which Prussia had taken by force in 1864, was to be re-ceded to the mother country for the island of St. Thomas. Secretary Fish instructed Michael J. Cramer to discover whether there was any truth in the rumor. Cramer reported that the *chargé d'affaires* of the German Empire at Copenhagen (the regular minister being absent) had stated positively that the rumor was unfounded. George Bancroft, our representative at Berlin, stated that he had assurances from the German government that no negotiations were in progress and that it would not accept the Danish islands as a gift. He added, however, that the decision on the *Alabama* claims had shown the German naval authorities how weak would be their position in case of a war, and that they were anxious to obtain coaling stations in various parts of the world. It seems that Hamilton Fish was not convinced for he gave orders to our representatives abroad to be watchful in case any negotiations of that character should occur.¹²

The dissatisfaction of the people of the Danish West Indies came to a head in October, 1878, when a revolt broke out in St. Croix as the result of a reduction in wages when the laborers asked for an increase. A riot was started in which forty-three sugar plantations were destroyed, the damages amounting to \$1,100,000. About one-half of the town of Fredericksted was burned to the ground, and only

¹¹ *The Nation* (1869), Vol. VIII, pp. 248-249.

¹² *Foreign Relations of the United States, 1874*, pp. 368, 439-440.

with difficulty was the riot finally quelled.¹³ During the following winter a commission of three was sent from Denmark to investigate the conditions. The report of this commission was very gloomy. The Minister of Finance had a measure introduced in the *Rigsdag* to the effect that the government should make temporary loans to the sufferers.¹⁴

After 1867 conditions in the Danish West Indies had grown worse year by year. Before that date the islands had been able to furnish money for their own government expenses and even at times to pay money into the state treasury. The sugar export from St. Croix had decreased from 15,000 hogsheads in 1865 to 3,800 in 1878. When introducing the bill for financial aid to the islands, the Minister of Finance said: "it is high time a final determination should be reached as to the exact position to be assumed by the mother country toward these islands, for the present state of things is no longer tenable."¹⁵

It is not surprising that under the circumstances a rumor should arise again that Denmark was trying to sell the islands.¹⁶ The State Department instructed Michael J. Cramer to inquire into the report, inasmuch as we could not regard with indifference their transfer to any European power. The reply of the Danish government was to the effect that no negotiations were under way, but that the islands were suffering greatly and England would be better able to take care of them. Just what England would do was not known to Denmark.¹⁷ It would seem that both at this time as well as in 1874 there was some truth in the rumor in spite of official denials.

For more than ten years the matter rested, but in 1892, when Clark E. Carr visited Jacob Estrup, the Danish Premier, to obtain copies of the Icelandic books containing the sagas of the discovery of America by the Northmen for the

¹³ *Ibid.*, 1878, pp. 160-161; *Ibid.*,

¹⁴ *Ibid.*, 1879, p. 307.

¹⁵ *Ibid.*, 1880, p. 345.

¹⁶ *Ibid.*, 1879, pp. 308-309.

¹⁷ *Ibid.*, 1879, pp. 308-309, 311.

Columbian Exposition at Chicago, the conversation accidentally turned to the unsuccessful treaty of 1867. Estrup made the statement that, while Denmark was not seeking a buyer for the islands, she would be willing to consider a proposal by the United States. Later the same opinion was expressed by the Minister of Foreign Affairs, Reedts-Thott. Premier Estrup authorized Carr to mention the matter to his government. In writing to the State Department about this, Carr showed that Denmark was not in financial difficulties, but that various improvements which she intended to make might become a reality if money could be obtained.¹⁸

Although Carr's correspondence did not elaborate upon the term "improvements," except to mention the re-erection of Christiansborg Castle which had burnt to the ground in 1884, there can be very little doubt in the minds of those that know the history of Denmark during this period. For years the conservative or *Højre* party had been in favor of a policy of military fortifications at certain strategic points, especially at the capital, Copenhagen. This was opposed by the liberals or *Venstre*. The *Højre* party had a majority in the aristocratic, appointive, upper house of the *Rigsdag*, known as the *Landsting*, but (after the election of 1884) could only count on twenty out of one hundred and two members in the lower house, or *Folkething*. It was therefore impossible for the conservatives to carry any measure proposed. When the conservative administration under the leadership of the Premier Jacob Estrup attempted to carry through their cherished plans, the liberals under the leadership of Kristen Berg blocked them by refusing to allow money for the ordinary government expenses. This was done the first time when the *Rigsdag* failed to pass the finance bill for the fiscal year, April 1, 1877, to March 31, 1878. The King, therefore issued a royal ordinance, which provided for the raising of money without the consent of the *Rigsdag*. This action, of course, was unconstitutional and had to be enforced by gendarmes who patrolled the country to prevent rioting. The royal ordinance continued in force for many years as neither the *Højre* nor

¹⁸ *House Documents*, 57 Cong., 1 Sess., Vol. XLVIII, pp. 2795-2797.

the *Venstre* party was willing to give way.¹⁹ It is natural that under these circumstances Estrup might wish to raise money for the administration's program through the sale of the Danish West Indies.

A short time after the suggestion was made to Clark E. Carr, a new political party got into control at Washington and, somewhat later, Jacob Estrup was succeeded in the premiership by Reedtz-Thott, who by wise concessions was able to compromise with the liberals and obtain money through constitutional means.²⁰ Consequently the question of the transfer of the islands was lost sight of for the time being, although John W. Foster had sent a telegram to Clark E. Carr on February 4, 1893, instructing him to go ahead with the negotiations.²¹

In January, 1896, the new representative at Copenhagen, John E. Risley, wrote to Secretary of State Richard Olney that the New York papers had aroused much comment in Copenhagen by stating that negotiations were in progress for the sale of the islands, and that, if the United States did not buy the islands, Germany would. Risley asked the Director General of Foreign Affairs concerning the truth of the report. The latter stated that the rumor was not true but that Denmark would be willing to sell the islands. Since the defeat of the treaty of 1867 in the United States Senate, Denmark surely would not take the official initiative in reopening the question. If the United States should make a proposition, it would receive courteous consideration.²²

It does not appear that the Democratic party was in favor of the purchase, since nothing was done during Cleveland's administration. The Republican party, however, seemed to be

¹⁹ For the text of the royal ordinance and the early part of the party struggle, see *Foreign Relations of the United States, 1877*, pp. 119-124. For fuller accounts of the parliamentary struggle in Denmark from 1875-1901, see *Cambridge Modern History*, Vol. XII, 292-293; Frederick A. Ogg, *Governments of Europe*, pp. 559-568; R. N. Bain, *Scandinavia*, pp. 428-431.

²⁰ *Ibid.*,

²¹ *House Documents*, 57 Cong., 1 Sess., Vol. XLVII, pp. 2797-2798.

²² *Ibid.*, pp. 2798-2799.

favorable to the idea. In its national platform of 1896 there was a plank favoring the purchase of the islands in order to obtain a naval station in the West Indies.²³ Thus, the party had reversed itself on the subject since the days of Charles Sumner. Speeches were made and articles written by men in favor of the purchase, and Charles Sumner and his associates were taken to task for their shortsightedness.²⁴ It was natural, then, that the Republicans should attempt to purchase the islands. But before a definite treaty was made a little episode took place which deserves to be mentioned.

It appears that a Danish naval officer, known as Walter Christmas,²⁵ who had been courtmartialled and dismissed from the service, conceived the idea of recovering his social standing by leading a movement to sell the Danish West Indies to the United States. He also hoped to restore his wasted fortune by obtaining a commission of ten per cent for the sale.²⁶ In December, 1899, he succeeded in getting into personal touch with President McKinley, who referred him to John Hay, the Secretary of State. Hay seemed interested and gave Christmas a letter of introduction to the American Ambassador at London. The Danish Envoy at Washington and the American representative at Copenhagen knew nothing about the work of Christmas. Christmas and Henry White, the secretary of the American Legation at London, went to Denmark to negotiate the sale with the Danish officials. Ravn, the Danish Minister of Foreign Affairs, was much surprised to learn what was going on. While he treated White very courteously, he flatly refused to admit Christmas to his office. Christmas, however, appealed to the Danish Premier and used effectively John Hay's letter of introduction. As a result he finally gained admittance to the foreign office. He was assisted in the negotiations by three other Americans, Niels Grön, Henry H. Rogers, and Charles R. Flint. Christmas

²³ *Review of Reviews*, Vol. XVII, p. 549.

²⁴ W. M. Jones, "Two Great American Treaties," *Review of Reviews*, Vol. XVII, p. 560.

²⁵ His full name was Walter Christmas Dirchinek Holmfeldt. *House Reports*, 57 Cong., 1 Sess., Vol. IX, Doc. 2749, pp. 1-2.

²⁶ *The Nation*, Vol. LXXV, p. 340.

informed the Danish officials that he could negotiate a sale for the islands, but that money would be needed to carry the treaty through the United States Senate. When this was brought out, Denmark refused to carry the matter any further and the affair was dismissed.²⁷

During Roosevelt's first administration the Danish representative at Washington, Constantin Brun, and John Hay succeeded in negotiating a treaty for the transfer of the islands to the United States for \$5,000,000. This treaty was ratified by the Senate and by the Danish *Folkething*, the lower house of the *Rigsdag*, but was rejected by the *Landsting*, the upper house of that body. It is generally conceded, or at least believed, that the defeat was due to German influence.²⁸

For some time the question of purchasing the Danish West Indies rested. Meantime, economic conditions were getting worse in the islands and the population was decreasing.²⁹ The approaching completion of the Panama Canal made it still more desirable for the United States to possess a good harbor in the West Indies. From the standpoint of location the harbor at St. Thomas was the best in existence. It was therefore natural that the question of purchasing the islands would arise again.

The outbreak of the war in 1914 and the fact that it was believed that Germany would make a strong bid for the Danish West Indies, if she should come out victorious in the World War, were perhaps the main reasons why negotiations were renewed for the purchase of the islands. A treaty was concluded between the two powers in the city of New York on August 4, 1916, and signed by Robert Lansing for the United States and by Constantin Brun for Denmark. The

²⁷ *The Nation*, Vol. LXXV, p. 320; *North American Review*, CLXXV, pp. 500-505. In the spring of 1902 the whole affair was investigated and proved to be a scheme of Walter Christmas and his associates. See the "Richardson Investigation," *House Reports*, 57 Cong., 1 Sess., Vol. IX, Doc. 2749.

²⁸ *The Nation*, October 30, 1902, Vol. LXXV, pp. 340, 393; *Congressional Record*, 64 Cong., 2 Sess., Vol. LIV, Pt. IV, pp. 3647-3651. For full text of the treaty of 1902, see *House Documents*, 57 Cong., 1 Sess., Vol. XLVII, p. 2788.

²⁹ *The Nation* (1903), Vol. LXXVI, p. 283.

Senate ratified the treaty on September 7, 1916. The exchange of ratifications took place on January 17, 1917, and the formal transfer of the islands was made on March 31, 1917, at which time the purchase price of \$25,000,000 was paid to the Danish Envoy at Washington.³⁰

Besides the customary articles in treaties of this type providing for cession and payment, Article III mentions a large number of grants, concessions and licenses which the Danish government had granted various firms. These are guaranteed to remain inviolate under the government of the United States. The question of the Danish National Church in the islands became the subject of separate notes exchanged between the two governments on January 3, 1917. The arrangement here made was that the islands might be put on the same basis in regard to religion as that guaranteed by the Constitution of the United States.³¹

In conformity with the Danish constitution, the treaty had to be ratified by the *Rigsdag*. Before the subject was taken up in that body for discussion, the administration caused a plebiscite to be held in the islands which turned out to be overwhelmingly in favor of the transfer.³² The question was also put before the people of the home country in order that the *Rigsdag* might learn public opinion in regard to the matter. The date set for the election was December 14, 1916. The liberal students of Denmark, backed by the administration and the Copenhagen newspaper *Politiken*, led the movement in favor of the sale. They argued that Denmark should concentrate her attention on her northern colonies, Greenland, Iceland and the Faerö islands, and get rid of the unprofitable West Indies. The conservatives, backed by the *Nationaltidende*, another Copenhagen newspaper, held that Denmark should not part with any of her territory.³³ During the week of De-

³⁰ *Statutes at Large*, Vol. XXXIX, pp. 1706-1717.

³¹ *Ibid.*, pp. 1716-1717.

³² *Congressional Record*, 64 Cong., 2 Sess., Vol. LIV, Pt. VI, p. 697.

³³ *Politiken*, December 4, 7, 14, 1916. Practically every issue of *Politiken* from August 1 to December 28, 1916, contains articles dealing with the sale of the islands. On December 7, 1916, the paper issued a supplement edited by the Radical Students' Association. This contained statements

ember 6-12, 1916, great massmeetings were held in twenty-five strategic points in different parts of the kingdom. These meetings were under the leadership of the radical students who spoke vehemently against the "unsound sentimentalism" of the conservatives.³⁴ The fact that since the treaty was made and ratified by the United States a very destructive cyclone had passed over the islands and destroyed close to a million dollars' worth of property was also used effectively by the pro-sale element.³⁵

When the election returns were complete, it was found that, out of 1,250,000 voters in the kingdom, only 441,290 had used the ballot. Of these about 283,000 were in favor of the sale and the rest against it. From this the conservatives drew the conclusion that, as only one-fifth of the voters had expressed themselves in favor of the sale, the West Indies should be retained. The conclusion, however, might fairly be reached that the election showed that the people in general did not care a whit whether the islands were sold or retained. On December 20, 1916, the *Folkething* voted 90 to 16 in favor of the sale, and the following day the *Landsting* followed with a favorable vote of 40 to 19. The King signed the treaty on December 22, 1916³⁶ As stated above, the transfer was completed three months later. Thus was completed a transaction which was surely beneficial to Denmark and, we trust, will not be regretted by the United States.³⁷ At the time the transfer took place, the United States Congress had already passed an act providing for a temporary government as well as for the payment of \$25,000,000 to Denmark.³⁸

by every member of the Council for the Colonies, who were all in favor of the sale. See *Tillæg til Politiken*, December 7, 1916.

³⁴ *Ibid.*

³⁵ The cyclone struck the islands October 9-10, 1916. *Politiken*, December 7, 1916.

³⁶ *Politiken*, December 15, 18, 20, 21, 22, 23, 1916.

³⁷ For a brief history of the Danish West Indies, see *House Documents*, 57 Cong., 1 Sess., Vol. XLVII, pp. 2765 ff; *Congressional Record*, 64 Cong., 1 Sess., Vol. LIV, Pt. VI, pp. 694-697. For a more complete history of the islands, see Waldemar Westergaard, *The Danish West Indies, 1671-1917*.

³⁸ *Statutes at Large*, Vol. XXXIX, Pt. I, pp. 1132-1134.

APPENDICES

APPENDIX A

An extract of a letter from Andreas Peter Bernstorff to Ditlev Reventlow, dated Copenhagen, December 27, 1777.

“Si l'indépendance de l'Amérique septentrionale n'avort pas d'autres suites que de mettre des bornes à l'ambition des Anglois et de les mettre hors d'état d'usurper l'empire tyrannique sur les mers, je la regarderois comme un bonheur, et je n'aurois pas besoin d'arguments pour m'en consoler, mais quand je pense aux difficultés qu'il y aura de soutenir alors nos possessions dans ces parages éloignés, la diminution du commerce de la Baltique, le danger que la pêche de Groenlande, si voisine de l'Amérique, ne peut que courir, la rivalité pour toutes les productions du nord en général et la supériorité que la France reprendra dès l'instant que l'Angleterre cessera de la lui disputer, alors je ne puis que m'inquiéter, et prévoir, un avenir rempli de doutes et d'incertitudes. L'Angleterre se propose certainement de se stipuler, même en reconnoissant l'indépendance de ses colonies, des avantages dans la commerce suffisants pour faire entrer les produits de l'Amérique et surtout le tabac dans sa propre balance, mais cette ressource lui sera encore vivement contestée. Je soupçonne qu'il existe déjà un traité de commerce entre le congrès et la France, qui assure à celle-ci des avantages futurs décisifs, et si mes conjectures sont fondées, je crains que ce sera là le germe d'une guerre presque certaine, que l'Angleterre poussera jusqu'à son triomphe ou jusqu'à son anéantissement parfait. L'emprunt de 25 millions que la France vient d'ouvrir, est uniquement destiné aux dépenses que le rétablissement de sa marine exige.”¹

APPENDIX B

An extract of a letter from A. P. Bernstorff to the Council of State, dated March 17, 1780.

“Wachsen Uns vielleicht durch die Unabhängigkeit von *America* solche Vortheile zu, die Uns wegen aller übrigen zubesorgenden Folgen schadlos halten könnten? Nein! gerade das Gegentheil. Es ist kein einziger Staat von Europa, Engelland selber nicht ausgenommen, für den diese Unabhängigkeit so drohend und so nachtheilig ist, als für Dänemark; und es ist Pflicht für mich, die Hauptbeweise dieses von mir längst behaupteten Satzes anzuführen.

1) Es ist eine Unmöglichkeit für Dänemark seine Colonien, die als

¹ Aage Friis, *Bernstorffske Papirer*, Vol. III, pp. 541-542.

Zuckerinseln ein besonderer Gegenstand des Neides der Nordamericaner sind, gegen künftige Angriffe derselben zu vertheidigen.

2) Können wir verschiedene *producten* dieser Länder, als z. E. des Reises, Tobacks, und Indigo nicht gänzlich entbehren, haben aber selber keine, die innen nützlich seyn könnten und zum Tausche dienlich wären; müssen sie also mit baarem Gelde oder mit Zucker bezahlen.

3) Sind sie in Ansehung aller unsrer zur Ausfuhr dienlichen Wahren, fast ohne Ausnahme, unsere *Rivale*: Insonderheit was das Korn, das Holz, und was noch bedenklicher ist, die Fischerey betrifft. Ja sie haben in Ansehung des Wallfish . . . wegen ihre Lage solche natürliche Vortheile, dass so bald sie nicht mehr werden bezwungen seyn, diese Ihre Wahren nach Engelland zu führen sondern nach alle Märkte und Häfen von Europa bringen Können sie Uns ohnfehlbar von denselben gänzlich ausschliessen werden

4) Wird durch ihre *directe* Farth nach den Häfen der Mittel-ländische See, der Handel mit den *production* der an dem Ostsee belegenen Länder, dergestalt fallen, dass der Zundzoll so beträchtlich leiden wird, dass der Schade wohl vorausgesehen, aber gewiss nicht berechnet werden kann'²

APPENDIX C

The treaty to which the Danish diplomat referred in his negotiation with Franklin was that between Charles II of England and Frederick III of Denmark. It was concluded February 13, 1660, Old Style, or February 23, 1661, New Style. Article V reads as follows:

"Concordatum quoque est, quod neuter praedictorum Regum alterius inimicos seu rebelles in Regnis et Provinciis suis recipiet, aut tolerabit dummodo inimicos ejus aut rebelles esse resciverit. Et si forte aliqua tapeta . . . vel alia cujuseunque bona mobilia ad Regum Magnae Britanniae spectantia penes Regem Daniae et Norwegiae, aut aliquem subditorum suorum jam nunc sunt, aut de futuro, protinus restituantur, et transmittantur ad Regem Magnae Britanniae, aut tradantur iis quos sua Majestas ad ea recipienda deputaverit. Item, si qui eorum, qui rei sunt illius nefandi paricidii in Regem *Carolus Primum* Britanniae Magnae admissi, ac legitime de eodem scelere attincti, condemnati et convieti, vel jam sunt in Dominiis Regis Daniae, vel post illuc advenient, statim quam Regi Daniae, vel aliquibus officiariis innotuerit, vel relatum fuerit, prehensi in custodiam dentur, et vineti in Angliam remittantur, vel in eorum manus tradantur, quos dictus Rex Magnae Britanniae iis custodiendis, denique revehendis praefecerit."³

The treaty is thus introduced: "De konineklijke Denemarcksche Secretarius hier door passerende communiceerde dit volghende Tractaet

² Ed. Holm, "Danmarks Neutralitetsforhandling, 1778-1780" *Historisk Tidsskrift*, 3 dje Række, Vol. V. pp. 77-78.

³ Jacques Bernard, *Recueil des Traitez*, Vol. IV, p. 30; Lieuwe van Alzema, *Zaken van Staat en Oorlog*, Vol. IV, p. 845.

/tusschen sijn koningh ende die van Engelandt gemaect/hoewel sonder dato/ofte onderschrijvinge.”⁴

The following footnote is also found in Du Mont, *op. cit.*, Vol. VI, p. 346. “Ce meme Traité se trouve deux fois dans la premiere édition de ce Grand Recueil de Hollande Tom. IV. la premiere fois pag. 29, avec un Preambule, sur la Copie d’Aitzema, et la seconde fois pag. 697, sur une Copie manuscrite; datée du Fevrier 1660. Celli-ci difere en quelque de toutes les autres et peut passer pour authentique, ayant été publiée sous les yeux de la Cour et du Parlement, par l’Imprimeur du Roi. On croit que la Date en doit être entendue selon le stile d’Angleterre qui revient au mois de Fevrier 1661, stile Gregorien.”

APPENDIX D

The statement upon which the historians, Fredericia and Schäfer base their conclusions in regard to the origin of the Sound Dues reads as follows:

“Vom Lübecker Tage im July 1423 erfahren wir: ‘Na der tiid begherden se (des koninges rad to Kopenhavene), uppe dat de crone wat hebben mochte to erer herlicheyd, int erste, dat eyn islik schip in dem Orssunde streke unde geve also vele, alse de stede sulven wolden, dat redelik were, edder dat alle Zeevund der cronen halff worde unde deme dat tovoeren tobehorede, efte dat men den tollen to Schone vorhogede, wente de schepe vormerden sik van dage to dage unde de penning vorerghede sik. Unde bii dem sulven lesten artikele bleven se’ ”⁵

APPENDIX E

Aabent Kongebrev.

Juli 20de, 1633.

“Efttersom vi haffuer ladett sette brokar ved den haffn for vor kjöbsted Helsingör, da haffuer vi naadigste for guod andseet, at her effter skall ungiffues haffne penge i saa maader som effterfølger: först skall huer skude eller skibe giffue aff huer lest om sommeren to schilling Dansch, och huer som vil legge offuer om vinteren skall giffue 4 schilling Dansch; desligeste skall huer baad giffue om sommeren I sosling og om vinteren I skilling Dansch.”⁶

⁴ We have obtained the date from Ivaro Quistgaard, *Index Chronologicus, 1200-1789*, p. 104.

⁵ Dietrich Schäfer, “Zur Frage nach der Einführung des Sundzolls,” *Hansische Geschichtsblätter*, Jahrgang, 1875, pp. 34-35.

⁶ Sjølandske Registre No. 19, fol. 143. Quoted by C. F. Wegener, *Geheimerarkivets Aarsberetninger*, Vol. III, p. 94.

APPENDIX F

Table of Money Values.⁷

Danish Currency before 1873.

1 Rosenoble.....	= 4¼ Rixdollars	= \$2.27
1 Specie dollar.....	= 2 Rixdollars	= 1.07
1 Specie dollar.....	= 12 Mark	= 1.07
1 Specie dollar.....	= 192 Skilling	= 1.07
1 Specie dollar.....	= 48 Stivers	= 1.07
1 Goldgulden.....	= 1 1/3 Rixdollars	= .71
1 Rixdollar.....	= 3 Marc banco of Hamb'g=	.53½
1 Rixdollar.....	= 6 Mark (Danish)53½
1 Rixdollar.....	= 4 Ort (or Rixort)53½
1 Ort.....	= 24 Skilling13¼
1 Mark.....	= 16 Skilling08½
1 Rixmark.....	= 20 Skilling11
1 Stiver.....	= 4 Skilling021/5
1 Skilling.....	=	.0055

Modern Danish Currency.

1 Krone.....	=100 öre	= \$.26.8
1 American Dollar.....	=3 Kroner 76 öre.	

APPENDIX G

Sundzollpass.⁸

BEI SE. KOENIGL, MAJESTÄT VON DANEMARK, DER WENDEN,
ETC. ETC.

Zollkammer in Oeresund hat sich gebürlich gemeldet der Schiffsführer
N. N. Schiff N. N. 131. N. Lasten von Stettin, kommt von Stettin
mit umstehender Ladung gehend nach Sunderland und hat klarirt, wie
sich gebürt.

Oeresund-Zollkammer, den 25 November 1844.

Holten.

Vorbemeldeter Schiffsführer hat geladen:

819 Stück eichener Schiffthölzer

Zoll: 24 Bthl. 28 St.

Föring: — Bthl. 47 St.

23 Bthl. 29 St.

Feuergelder: 4 Bthl. 24 St.

28 Bthl. 5 St.

G. Prosch.

⁷ This table is worked out from facts presented in *Executive Documents*, 33 Cong., 1 Sess., Doc. 108, p. 8; William Guthrie, *A New Geographical, Historical, and Commercial Grammar*, p. 662, folder; and John Macgregor, *Commercial Statistics*, Vol. I, p. 158.

⁸ Each ship passing the Sound had to obtain a similar certificate as a receipt that Sound Dues were paid. This sample is taken from H. Scherer, *Der Sundzoll*, Bellage B, pp. 802-803.

/tusschen sijn koningh ende die van Engelandt gemaect/hoewel sonder dato/ofte onderschrijvinge.”⁴

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1 Rixdollar	= 6	Mark (Danish)	=	.53½
1 Rixdollar	= 4	Ort (or Rixort)	=	.53½
1 Ort	= 24	Skilling	=	.13¼
1 Mark	= 16	Skilling	=	.08½
1 Rixmark	= 20	Skilling	=	.11
1 Stiver	= 4	Skilling	=	.021/5
1 Skilling			=	.0055

Modern Danish Currency.

1 Krone	= 100	öre	=	\$.263
1 American Dollar	= 3	Kroner 76	öre.	

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F. W. Sponneck	Minister Resident	1888-18
F. de Beventlow	Minister Resident	1894-18
Constantin Brun	Envoy Extraordinary and Minister Plenipo- tentiary	1895-19
Count Moltke	Envoy Extraordinary and	1908-19
Constantin Brun	Minister Plenipotentiary	1913-

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24 Cong., 2 Sess., Doc. 297, Ser. no. 306.

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- 31 Cong., 1 Sess., Vol. I, Doc. 1, Ser. no. 549.
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VOLUME VIII

NUMBER 3

DOCUMENTARY HISTORY OF
THE TACNA-ARICA DISPUTE

BY

WILLIAM JEFFERSON DENNIS

PUBLISHED BY THE UNIVERSITY, IOWA CITY

1

EDITOR'S INTRODUCTION

In South American history no diplomatic subject has been more insistent and more vital to the diplomatic prestige of the United States in Latin America than the Tacna-Arica question. It touches American commercial as well as diplomatic relations, and in South America it has been the persistent international irritant which rose out of the nitrate and guano wars of 1879-1883. Patriotic and sentimental memories have never allowed the question to disappear in Chile and Peru. It is the "Alsace-Lorraine" question of South America.

William Jefferson Dennis, the author of this study and an instructor in the State University of Iowa, was a resident of Peru from 1917 to 1922 and also visited Chile and Bolivia. These qualifications, it is hoped, have enabled him to preserve something of the atmosphere of the controversy without impairing the judicial and impartial spirit of its record.

The author and editor are happy to express their obligations to Professor William S. Robertson of the University of Illinois who carefully read the entire work and offered the best in advice and decision.

LOUIS PELZER

September 1, 1927

1. The first part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

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EXPLANATION OF GUIDE MAP OPPOSITE

Since the Tacna-Arica question is an outgrowth of the War of the Pacific, which conflict marked the expansion of Chile, this study follows the expansion of that nation.

Copiapo and the broken line at $27^{\circ} 22'$ mark the original northern limits of colonial Chile.

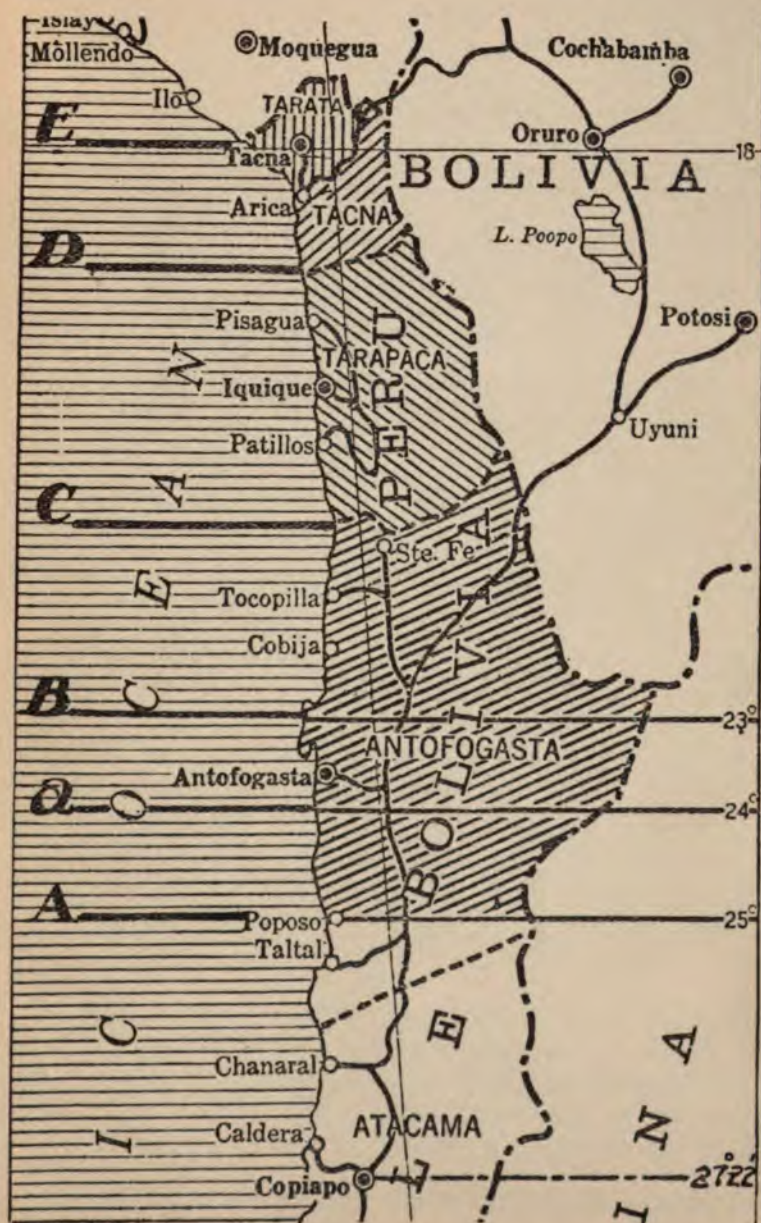
The oblique broken line extending from just above *Chanaral* to near parallel 25 marks the boundary of the Republic of Chile as recognized by the United States. The region from this line to *D*, known as the Desert of Atacama, was scarcely inhabited.

From *A* to *C* was the coast province of Bolivia used only for the seaport at Cobija. The founders of the republic wanted Tacna and Arica so as to have Arica for a seaport, but Peru would not sell them.

When guano deposits were found in the Desert of Atacama in 1842 Chile claimed the coast to *B* at parallel 23, making of *A* to *B* a disputed region.

By the Treaty of 1866 the Chile-Bolivian boundary was fixed at *a* or parallel 24, but the nations agreed to share equally revenue from guano and nitrate in all the region *A* to *B*.

The treaty did not settle the guano and nitrate conflict, and in the resulting War of the Pacific, 1879-1884, Chile defeated Bolivia and her ally, Peru, and annexed all of Bolivia's coast *a* to *C*, which she renamed Antofagasta, all of the Peruvian province of Tarapacá, *C* to *D*, and was to occupy the Peruvian provinces of Tacna and Arica, *D* to *E* for ten years when a plebiscite was to have determined their permanent ownership. The plebiscite was never held, and the present Tacna-Arica dispute involves the question of Peru's lost provinces and an outlet to the sea for Bolivia.



Guide Map to Study. See opposite page for explanation.

1. The first part of the document is a list of names and titles, including "The Hon. Mr. Justice" and "The Hon. Mr. Justice".

INTRODUCTION

The Chile-Peru arbitration case in which President Coolidge handed down his opinion and award March 4, 1925, arises from a long-standing dispute usually called the "Tacna-Arica" question or the "Question of the Pacific."¹ It is sometimes referred to as a boundary dispute, but, although the boundaries of Tacna-Arica are indirectly involved, they are incidental in the controversy.

The term Tacna-Arica results from the compounding of the names of the former Peruvian provinces, Tacna and Arica, which were a part of the territory taken from Peru by Chile in the War of the Pacific, 1879-1884. This war was the result of a quarrel over nitrates between Chile and Bolivia in which Peru entered as an ally of the latter. Chile, being victorious, forced Bolivia to sign the Pact of Truce of April 4, 1884, and obliged Peru to sign the Treaty of Ancón, ratified March 28, 1884.² By the provisions of these treaties Chile retained Atacama, the coast province of Bolivia, for considerations to be arranged later, received from Peru the permanent cession of Tarapacá, the southern province of Peru, and was to occupy Tacna and Arica for ten years. At the end of the ten year period a plebiscite was to decide the permanent ownership of them, and the winning nation was to pay the loser ten million silver pesos.

Article III of the Treaty of Ancón provided that a plebiscite protocol stating details of the election would be drawn up and included in the treaty as an integral part of it. But the protocol was not drawn up and the treaty was ratified without electoral provisions.

At the end of the ten year period, March 28, 1894, the plebiscite was not held, and Chile remained in possession of Tacna-Arica. Each year of the overdue plebiscite added complications and engendered hard feeling until it became more than a mere question of qualifications of voters and manner of voting—if indeed those

¹ *The Opinion and Award of the Arbitrator*, Government Printing Office, Washington, D. C.

² Texts of these treaties, *infra*, Docs. 82 and 83. The date used in this work for the Treaty of Ancón is the date of signing, October 20, 1883, as usually given—the plebiscite was to be held ten years hence from ratification, March 28, 1884.

considerations had ever been the real issues of the question in its larger sense. The difficulties growing out of the unfulfilled plebiscite clause of the Treaty of Ancón constitute technically, then, the Tacna-Arica question. During Chilean occupation Chile designated the region simply "Tacna," but most writers use the double name which will be used in this work.

The material resources of Tacna-Arica are not great. A casual traveler is inclined to think the region hardly worth the dispute. It lies down the Pacific coast 2,000 miles south of Panama, contains about 14,000 square miles, and 39,359 estimated population.³ Most of the region is arid desert rising quickly from the coast to the bleak Andes. About 130,000 acres are arable, some 30,000 being under irrigation. Grazing and the raising of vegetables and fruit are the principal occupations. Various minerals are found, but as yet in unimportant quantities unless the borax mines of Chileaya are found to be in Tacna-Arica and not in Tarapacá. On the north and south the disputed region is limited by two old river beds or ravines of the Sama and the Camarones. These rivers rise in the Andes and flow southwestwardly into the ocean at 17° 57' and 19° 11' S. L., respectively.

These rivers are mountainous canyons in their upper courses with various channels. This fact raises the question which is the main channel and therefore the question which is the boundary in the uplands of both sides of the region. It is a question of secondary importance, although included in the present arbitration. When the armies of Chile withdrew from Lima after the war, they remained in possession of three districts of Taratá among the upper channels of the Sama River.⁴ On the southern or Camarones side there is the above mentioned doubt about the jurisdiction of the Chileaya mines. Naturally in settling the ownership of Tacna-Arica its limits cannot be left undefined.

The importance of Tacna-Arica is strategic and, in the broad sense sentimental. Arica is the natural outlet to the sea for Bolivia and the only port of call for large steamship lines between Mollendo and Iquique. It is located at the terminus of the lowest and most direct route over the cordillera from the plateau of Bolivia. It should have been included in that republic when it was formed

³ Rand McNally, *Commercial Atlas of America*, fifty-sixth edition, p. 604. The population is based on Chilean estimation.

⁴ Taratá was returned to Peru by the Coolidge award. See *Opinion and Award*, p. 60.

and its founders tried to do so. But as Tacna-Arica had long been a part of colonial Peru, Bolivia had to content herself with Atacama, her only maritime province, which afforded a poor and indirect outlet to the sea. Besides the railroad leading up to Bolivia from Arica there is one connecting this port with Tacna, a city of 12,000 inhabitants and the present capital of "Tacna," situated about forty miles inland. There is at Arica commanding the port a Gibraltar-like promontory called the Morro of Arica. Nearby is also a high rocky island. Arica, as seen, is important geographically. The commerce clearing through it amounts to from three to four millions of dollars annually, much of which is Bolivian.

Of greater importance in this question is the historical, and strictly speaking, the sentimental value of Tacna-Arica. In the War of the Pacific it was the strategic point. Before, during, and after the war it has been the lever of temptation by which Chile would break the *entente* which has existed between Bolivia and Peru since 1873. Near the city of Tacna the allies were decisively defeated and on the Morro of Arica the Peruvians made the last stand in their southern provinces. The revindication of Tacna-Arica means to Peru what the reincorporation of Alsace-Lorraine meant to France. In brief the awarding to either country of a permanent title to Tacna-Arica would constitute a verdict of guilt or innocence in an acute moral question, the War of the Pacific. Commercially Tacna-Arica is a white elephant to Chile, productive of little revenue, costly to administer, and costly to defend. Likewise the region would scarcely be worth to Peru the cost of the arbitration and the 10,000,000 pesos. But for Chile to win permanent title to it would be to give moral sanction to her conquest of Atacama and Tarapacá and to her long occupation of Tacna-Arica. It would add moral victory to her undefeated military record and leave her a clear title to the door to Bolivia.

For Peru to win the region would be to reunite her broken family of provinces, except for Tarapacá, and morally to convict the kidnapper. The great military and economic humiliation and the wounds of the War of the Pacific would be measurably salved. Winning a moral victory in this case would be more desirable to Peru than martial success. The fact that the question comprehended more than the manner of fulfilling the plebiscite clause of the treaty of peace was recognized in the supplementary act to the protocol of arbitration signed at Washington which provided that

in case the plebiscite could not be held the arbiter would help to determine the disposition of the territory.⁵

To understand how delicate the question was it is necessary to consider briefly the Treaty of Ancón, and especially Article III, the plebiscite clause. Other articles of the treaty gave Chile permanently the great nitrate province of Tarapacá, and the right to sell a million tons of guano from the Peruvian islands. Chile was to keep half the proceeds and give the other half to creditors of Peru.⁶ Chile also retained the great nitrate province of Atacama which was taken from Bolivia. This costly treaty was forced on Peru as the price of the withdrawal from her capital of Chilean forces. But Peru would not cede definitely Tacna and Arica even for that price. In addition to her stubborn resistance there were protests of foreign powers against the severity of the peace terms. The result was that the ten year occupation clause was the most that could be secured, even with Chilean arms backing up the faction that framed the treaty.

At various times in later negotiations Chilean statesmen have claimed that the occupation of Tacna and Arica was disguised annexation.⁷ That is historically incorrect and reflects on the integrity of the Chilean Commissioners who framed the treaty.⁸ They wrote Article III in good faith, but they hoped it would be equivalent to annexation. As a military protection for the nitrate coast captured and as a safeguard against competition from nitrates then thought to exist in Tacna-Arica Chile needed the provinces. Had nitrates been found in the region as expected it would have been Chileanized by nitrate migration as surely as California was Americanized by gold seekers, and easily within ten years. Another reason why Chile was determined to retain Tacna and Arica was for purposes of pro-Bolivian diplomacy. By the truce pact then being negotiated with Bolivia Chile made no definite compensation for Atacama. Arica is Bolivia's natural outlet which she has always wanted and in Chile's possession it would serve as one Chilean senator said, to keep up Bolivia's *expectativos*, her hopes for a seaport. The plebiscite clause was an expedient, or a *modus vivendi*. Peru would not cede nor sell Tacna-Arica and

⁵ See text of Protocol of Submission, Doc. 88, *infra*.

⁶ Treaty of Ancón, Art. IV. See Doc. 82, *infra*.

⁷ *Opinion and Award*, pp. 13 and 14. Also Bálmes, Gonzalo, *Guerra del Pacífico*, Vol. III, p. 529, Valparaiso, Chile.

⁸ *Infra*, introduction to Docs. 84 and 85.

Chile was determined to continue occupying it. However, nature drew the line on nitrates at the southern border of Arica and without that industry Chilean migration during the ten years was negligible and Chile would not consent to any election which would endanger her occupation of the territory.

As the period of occupation drew to a close and at intervals since, Peru made efforts to obtain a settlement but Chile did not seriously endeavor to hold the plebiscite until the time of the Harding mediation, except in one instance. In 1898 a project known as the Billinghurst-Latorre Protocol which left important points to the Queen of Spain for arbitration passed the Chilean Senate but was defeated by the Chamber of Deputies.⁹

Meanwhile, both before and after the end of the ten-year period, Chilean administration of Tacna-Arica led to charges by Peru of official Chileanization. Article III of the treaty provided that the territory should "continue to be possessed by Chile and subject to Chilean legislation and authority for a term of ten years," Chile not only held it subject to her authority and administrative legislation, but colonized, built a railroad, and subsidized factories. These acts Peru always protested. In the difficulties attending these acts Peruvians had their schools closed, their priests removed, and their press silenced. Peru thereupon severed diplomatic relations from 1901 until 1905. In 1908 relations were again broken, but there were some direct negotiations between their ministries in 1909, 1912, and 1914. In the meantime Bolivia had by various steps made final settlement with Chile for the loss of Atacama, receiving, besides financial considerations, the free use of the ports of Arica and Antofagasta.¹⁰

In the awakening of national consciousness during and following the World War, there was a renaissance of this question. Owing to the idealistic utterances of President Wilson regarding the rights of lesser nations, hope for a settlement was reawakened in Peru, and even Bolivia renewed her aspirations for a port on the Pacific. There were demonstrations in pro-Peruvian clubs in Tacna-Arica and even in definitely ceded Tarapacá. Some of these clubs were stoned and demonstrators were warned to leave. The usual diplomatic flirtation with Bolivia took place and sentiment

⁹ Text of Billinghurst-Latorre Protocol, *infra*, Doc. 84.

¹⁰ Text of Treaty, *infra*, Doc. 85.

was divided in that country on whether to expect a port from Chile or from Peru.¹¹

Of course this ever present foreign problem affected domestic as well as international politics and hindered real progress in both countries. Peru, under the administration of Dr. José Pardo, had favored the allies during the World War, had allowed the United States to take over interned German ships, and had protested against submarine warfare. But it had not declared war against the Imperial German Government. Although the Imperial German Government had sunk a Peruvian bark and sympathies were generally with the allies, Dr. Pardo said it would be almost "despicable" to declare war on a nation 8,000 miles away when his country lacked the means of being effective in the war.¹² It was understood that the allies wanted a contingent of 50,000 men and offered to arm and train them, and opponents of the administration accused Dr. Pardo of losing a unique opportunity of sharing in a world peace conference which might restore Tacna-Arica or at least give Peru military prestige and training. This incident had a great effect on domestic politics. The Minister of Foreign Relations was interpellated by the Senate,¹³ and the situation was a contributing factor, either cause or pretext, in the overthrow of Dr. Pardo before his term had expired.

In Chile also domestic reforms were complicated with the Tacna-Arica situation. One instance is typical. After the disturbances before mentioned took place in Peruvian clubhouses in Tacna-Arica an army of 30,000 men was mobilized in northern Chile. Since it was well known that Peru did not have a full regiment in any one garrison outside of Lima it was evident that the military gesture was made for its effect on domestic issues. In a speech in the Chilean Congress on April 20, 1921, a deputy condemned the costly mobilization and charged that it was an attempt at intimidation of the party that had elected Sr. Arturo Alessandri to the presidency.¹⁴ Opponents of Alessandri used the Tacna-Arica issue to defeat his candidacy, and his desire to be free to deal with do-

¹¹ The statements in this paragraph are based on the tone of the press of the three countries and observations of the writer who resided in South America from 1918 to 1921 inclusive.

¹² Pardo, Dr. José, *Peru*, New York, p. 6.

¹³ Cornejo, Dr. Mariano, *La Intervención del Peru en la Guerra Europea*, Lima, p. 64.

¹⁴ *La Prensa*, Lima, May 28, 1921.

mestic issues may explain partly his direct and unexpected negotiations with Peru which resulted in the Harding mediation.

This Tacna-Arica question was also a menace to the peace of South America and contributed to international whisperings and talks of balance of power. In May 1921 a Chilean mission, called the "Matte Mission," went to Brazil avowedly as a return courtesy for a visit from a Brazilian diplomat made many years before. A Brazilian daily stated that the mission had, in its opinion, three objects; viz., to sound Brazil on the question of the Pacific, to discover what coöperation could be secured from Brazil, and to see if it were possible to galvanize the corpse of the A. B. C. policy.¹⁵ Another instance of the international aspect of this question was occasioned by the visit of General Charles Mangin who represented France at the Peruvian centennial in the same year. Owing to his renown he was entertained with military reviews by the countries visited and had an opportunity to observe things military. On returning to Paris he stated in an interview that Chile had the best army which he saw. As soon as the French paper containing that statement was received in Argentina the congress of that country interpellated its minister of war.

The extreme bitterness of feeling which existed between Chile and Peru was demonstrated in 1921 in connection with the celebration of the Peruvian centennial of its independence. Of all the nations of the world only Chile and Ecuador, her supposed ally in the balance of power, did not take part; while Chilean dispatches to Argentine papers furnished derogatory accounts of the celebration. Among the many special ambassadors at the celebration was United States Ambassador Alfred Douglas, who, in a speech at a banquet made the statement that "might does not make right, . . . that treaties solemnly made, cannot with impunity, be treated as 'mere scraps of paper' . . ." ¹⁶ He also made some generalizations about the moral accountability of nations to the world. The reports of this speech caused Santiago to request an explanation from Washington, and Mr. Douglas explained that he *had not referred especially* to Chile.

On September 13, 1921, the president of Chile promulgated a law incorporating Taratá into the department of Tacna after it

¹⁵ *Gazeta de Noticias*, Rio de Janeiro, May 10, 1921.

¹⁶ *The West Coast Leader*, Lima, August 6, 1921.

had been administered as a separate unit for ten years.¹⁷ The Peruvian minister of foreign affairs addressed a note to foreign chancellories in which he charged Chile with trying to "hide the fruits of her crime," and expressed the hope of "great historical reparations in the new world."¹⁸

There is no doubt that the universal awakening which followed the World War hastened the advent of the Harding mediation. There was also an important economic motive besides the domestic political ones made soon after the above mentioned incidents of the centennial. Previous to the completion of the Panama Canal and the advent of the World War the nitrate industry was the predominating influence in Chilean economic policy. There was no other big industry contributing any considerable tax to the government or requiring economic policies of the state. But the Panama Canal rerouted commerce. Chile, owing to its coast and naval traditions, has always had great maritime possibilities. The opening of the canal was soon followed by the German blockade so that Chile made the most of her opportunities and became an important carrier in South America. This business at once felt the effects of the Tacna-Arica trouble. Not only did the long unfriendly coast of Peru give most of its business to American and Japanese lines but, whenever there was a disturbance calling for fresh anger at Chile, Peruvian longshoremen refused to load or unload Chilean cargoes. That Tacna-Arica was a "white elephant" to Chilean commerce became more and more evident and this factor increased the desire of President Alessandri for a settlement of the question.

Although the presidents of both Chile and Peru were determined to terminate the Tacna-Arica question there was strong opposition at home. The opposition in Chile to President Alessandri has been mentioned. There were three principal reasons for objecting to the holding of the plebiscite other than purely political opposition to the president. If Chile should win, little would be gained as it already had possession and exercised all the privileges of sovereignty. If Chile should lose Tacna-Arica the "ambitions of old and irreconcilable enemies would be whetted" and Peru might then want Tarapacá back. And if "Chile were generous with Peru, Bolivia and many others would interpret this as a weakness and

¹⁷ *Supra*, p. 12.

¹⁸ *The West Coast Leader*, Lima, November 30, 1921.

would feel inclined to press their demands.''¹⁹ In Peru the opposition held that a political arbitration would not be so advantageous as a juridical settlement by the Hague, the World Court, or some other judicial body. The opposition feared that by arbitration a Solomonian decision might result and believed a juridical verdict would give them the entire provinces.

From the foregoing, something of the magnitude and acuteness of the question on the eve of its submission to arbitration may be gathered. In 1920 the president of Chile authorized Minister Puga Borne to negotiate informally with the President of Peru but nothing was done. Near the close of the following year, in which the question had been in a state of more or less constant ferment, the step was taken which led to the Harding mediation. On December 12 the Chilean Chancellor, Barros Jarpa, sent a cablegram to the Peruvian Chancellor, Dr. Alberto Solomon, inviting Peru to hold the plebiscite as agreed upon in the Treaty of Ancón, in order to determine definitely the nationality of Tacna-Arica. The message, frank and friendly in tone, stated that the invitation had been agreed upon by the Council of Ministers presided over by President Alessandri and attended by the heads of political parties, and it caused a sensation in Lima.²⁰ As diplomatic relations had been broken off the Peruvian government, evidently fearing a hoax, inquired through a neutral embassy as to the authenticity of the cable. The result of several weeks of negotiations by cable was an offer by Peru to "submit jointly the entire question of the South Pacific that divides us to an arbitration, agreed to through the initiative of the Government of the United States of America."'²¹

Very soon after this offer came the invitation of President Harding to have the negotiations brought to Washington where the question might be arranged or its arbitration agreed upon.²² Copies of the invitation were delivered to the two governments on the same date, January 18, 1922, through the United States embassies in Santiago and Lima. When deliberations were transferred to Washington the Chilean delegation maintained that the only question needing settlement was the manner of fulfilling Article III of the

¹⁹ Edwards, Bishop D. Rafael, *Relations of Chile and Peru*, Santiago, p. 21. This booklet was secured from the Chilean embassy in 1922 in answer to a request for literature containing the Chilean position.

²⁰ *The West Coast Leader*, Lima, December 14, 1921.

²¹ *Opinion and Award*, p. 16.

²² Text of Harding invitation, *infra*, Doc. 86.

Treaty of Ancón; i.e., the plebiscite clause. Peru held that a plebiscite arranged for under conditions existing in 1883 would be now invalid and that the ownership of Tacna-Arica should be determined by the arbiter who should take into consideration the whole question of the South Pacific. The deliberations were long and difficult and the repercussion in Peru and Chile great. Not until July 20, 1922, were the protocol of submission and the supplementary act agreed upon.²³

In securing the approval of their congresses to the protocol, the domestic politics of both presidents, Augusto Leguía of Peru and Arturo Alessandri of Chile, figured as both cause and effect. In Peru opposition to the negotiations was strengthened by the action of loyal Peruvians in Tarapacá and Tacna-Arica. Pro-Peruvians in definitely ceded Tarapacá, whose hopes of reincorporation into Peru had been aroused, memorialized Peruvian officials in Lima and in Washington that no action should be taken under the Treaty of Ancón. They urged that the treaty be held completely null, saying that it would be better to hold the question open to future settlement on that basis than to give sanction to the Treaty by complying with the plebiscite clause even to gain Tacna-Arica.²⁴ This Tarapacá group was not large, but opponents to the Washington negotiations were much affected by it. A committee from Tacna-Arica also presented a memorial to the United States ambassador urging against the division of the region.

After delays in securing congressional approval to the protocol and in arranging the personnel of the delegations, the parties presented their allegations to the arbiter. The cases were presented by distinguished diplomats and counsel, among whom were Edwin M. Borchard, Professor of Law at Yale University, for Peru, and ex-Secretary of State Robert Lansing for Chile. President Coolidge, who inherited the arbitration from the late President Harding, handed down his "Opinion and Award," dated March 4, 1925, the last day of the incumbency of Secretary Hughes who had labored hard to bring about the settlement of the question.²⁵ It was made public March 8 and created a great sensation in South America.

The Opinion and Award seemed rather favorable to Chile in

²³ Text of Protocol of Submission to Arbitration, Doc. 88, *infra*.

²⁴ Palma, Clemente, *La Cuestión de Tacna y Arica y la Conferencia de Washington*, Lima, Appendix, pp. 89, 90.

²⁵ *Infra*, Doc. 89.

that the plebiscite was ordered to be held. The contentions of Peru regarding the Chileanization of Tacna-Arica were partly sustained, but not sufficiently to invalidate the plebiscite clause. The manner of holding the award was apparently favorable to Peru and the districts of Taratá were awarded outright to Peru.²⁶ Chile won the main contention, that the plebiscite clause should be executed. The arbiter would not go back of that clause and reopen the main question. In this he followed the precedent of President Harding who early in the negotiations refused the request of Bolivia to sit in the conferences, on the ground that the mediation contemplated only the unfulfilled clause of the treaty between Chile and Peru. Historical considerations were ruled out, a legalistic interpretation of the plebiscite clause was given for the award, and a hypothetical basis was taken for the opinion.²⁷ Mr. Lansing gave to the press a rather undignified exulting statement in which he said: "From the beginning to the end the award is a complete vindication of the course pursued by Chile during the past thirty years and an indorsement of Chile's position in the case and countercase which she has submitted to the arbitrator."²⁸ Outside of the lack of diplomatic taste and the historical inaccuracy of the statement,²⁹ the connection of an ex-Secretary of State and particularly one of so recent incumbency, might well be termed questionable legal and diplomatic ethics.

In Chile the Award came as an agreeable surprise. It was also co-incident with the return of President Alessandri from Italy where he had been exiled by a military *junta*. Since the Tacna-Arica settlement was one of his important policies he arrived home with increased prestige.³⁰ It would not be too much to say that the favorable award made safe his reassuming the presidency.

In Peru the disappointment was extreme. Popular manifesta-

²⁶ *Supra*, p. 12.

²⁷ See *infra* introduction to Doc. 90.

²⁸ *The Daily Iowan*, Iowa City, March 8, 1925.

²⁹ The impracticability of holding a plebiscite and the unwillingness of Chile to coöperate in a fair plebiscite was soon apparent to the Plebiscite Commission. See statement of General Pershing in session of December 9, 1925, *New York Times*, December 10, 1925. General Pershing resigned and was succeeded by General William Lassiter who found it impossible to hold a plebiscite. June 14 he with the Peruvian commissioner voted to abandon the plebiscite. See his statement, *United States Daily*, June 18 and 19, 1926, given in part in *infra* last document.

³⁰ Montenegro, Ernesto, "Award's Influence on Chilean Policy," *Current History*, May 1925.

tions occurred in Lima and Callao which required all the tact of the government to handle. Strangely enough a remarkable natural phenomenon aided in limiting the political disturbances to minor outbreaks. There occurred in Lima and along the desert coast an all-night rain. Since a rain had not fallen in the history of the coast, buildings had not been roofed for turning water other than heavy dews and mists. Consequently the attention of the population was directed to the exigencies of the fluvial calamity which accompanied their diplomatic defeat. It was a hard blow. Added to the expense of restoring buildings, bridges and power stations, would be the expense of holding the plebiscite. It would be easy to get 10,000,000 pesos to pay for territory acquired, but hard to get a few hundred thousand to hold an election which they had so much wanted thirty years ago, but so hated under present conditions.

Serious violence was avoided, however, although the parades and other demonstrations were enormous. The most impressive protest against the award was a procession of thousands of women who marched in silent protest past the United States embassy and carried flowers to the monument of veterans of the War of the Pacific. At the close of the speeches by women, a man prominent in public affairs was called upon to speak for the aged widow of Admiral Miguel Grau. He closed his remarks with the conclusion that Peru's only hope was in her own might for, "There is no international justice."³¹

Besides being confident of the justice of her contentions, Peru had expected a very favorable hearing from the President of the United States. This was due to the fact that the United States had intervened ineffectively in the War of the Pacific advocating the policy of "no territorial indemnities." This had aroused in Peru a hope that had helped cause her to prolong the war to such an extremity that the severe terms of the Treaty of Ancón were the result. United States' intervention and her general policy with respect to the war had prevented European intervention. It was expected, therefore, that the arbiter should feel a measure of responsibility in securing a very fair, if not indeed a favorable, settlement for Peru. While the United States could not be blamed for the death of President Garfield and the consequent downfall of Secretary James G. Blaine whose intervention policy it was,

³¹ *La Crónica*, Lima, March 16, 1925.

the President might in justice make some belated amends by effective intervention in the question. For these historical reasons as well as because of the lapse of time and the Chileanization of Tacna-Arica during the period, it was taken for granted in Peru that President Coolidge would hold the plebiscite clause void and determine the future of the provinces on other bases.³²

This expectation in Peru was accentuated by other circumstances. Owing to the analogy of the cases the revindication of Alsace-Lorraine by the allies in the World War, had aroused great hopes. Peru had served the cause of the allies by turning over to the United States German ships interned in its harbors and by aiding the embargo against a great German sugar company in Peru known as the "Geldmeister Estate" at a time when Chile was trying to ship the sugar in a government transport. Peru considered herself in a sense an ally of the United States.

Following the World War Peru had adhered to the policy of the United States almost slavishly in not joining the League of Nations. The project of the League was hailed with great favor and few if any other foreign executives ever so won the admiration of Latin America as did Woodrow Wilson. No other figure in American history ever reached a higher place in Latin-American esteem. But when the United States failed to enter the League of Nations, Peru still adhered to this nation. It not only remained out of the League, but helped to induce Bolivia to withdraw a premature appeal which she had made to the League for a port on the Pacific.³³

As a final factor in arousing Peruvian expectations in the Harding mediation there should be mentioned a marked financial favoritism in Peru toward North American business. Of course a majority of American concerns in Peru were doing a legitimate business which was an asset to that country and a credit to the United States. But a number of American public service and building corporations secured contracts from the Peruvian government on exceptionally favorable terms. This favoritism added to the feeling in Peru that much could be expected from the intervention of the United States.

The most interesting feature of the arbitrator's opinion was in

³² See *Peruvian Year Book* (Centenary edition of West Coast Leader), p. 6.

³³ Barros Borgona, Luis, *La Cuestión del Pacífico y las Nuevas Orientaciones de Bolivia*, Santiago, 1922, Chapter I.

regard to the validity of the plebiscite clause after the ten-year term had expired. The Spanish text read that the region should remain under Chilean law and authority for a term of ten years, and, "*expirado este plazo*," literally, "ended this period," a plebiscite should be held.³⁴ In some English translations it was rendered, "after" this period, the preposition "after" being used instead of the past participle. Unfortunately for Peru her commissioners used this text in their case. The arbitrator said that the plebiscite was to be held *after*, and indeed any time after, ten years.

This interpretation was a suprise to anyone familiar with the language and spirit of the treaty. Peru immediately filed a memorial with the double purpose of protesting against the grammatical rendition of the past participle which it was suggested was doubtless caused by a misunderstanding of the Spanish usage, and praying for the policing at once of Tacna-Arica by neutral troops.³⁵ It was alleged that as soon as the award was announced pressure was put on people in the region suspected of being loyal to Peru and they were being forced out in anticipation of the plebiscite.³⁶ President Coolidge, in his answer, dealt rather sternly with the memorial. He said that while his decision was final and without appeal he would make some explanations. In the first place he had used the translation of "*expirado*" employed in the Peruvian case, and secondly, he had no authority under the protocol to police the region during the plebiscite. Of course this was the weak place in the award. Apparently it was not realized that the situation was as acute in Tacna-Arica as it was in the Territory of Kansas in the days of attempted "Squatter Sovereignty."

The award provided thorough machinery for the execution of the long deferred plebiscite. A plebiscitary commission and registration and election boards were created as well as a special boundary commission to mark out the disputed courses of the rivers Sama and Camarones. The main commission consisted of three members, one named by each contending nation and a third, who was to be the chairman, named by the arbitrator. President Coolidge named General John J. Pershing as chairman. Chile named

³⁴ See text of Treaty of Ancón, *infra*, Doc. 82.

³⁵ *Memorial of Peru*, p. 9.

³⁶ Compare with report of General Lassiter, *United States Daily*, June 18, 19, 1926, extracts of which are given in *infra* document 90.

Agustín Edwards and Peru Manuel Freyre-Santander. Colonel J. J. Morrow was named chairman of the special boundary commission and both bodies were soon organized. Judging from the high quality of the commissioners, the thoroughness of the provisions of the award for appeals and other emergencies, and from the tone of the reply of President Coolidge to the Peruvian memorial it seemed as though the long overdue plebiscite was soon to be held and the famous Tacna-Arica Question settled.

Elaborate preparations were made in Peru for bringing back the expatriated voters of the region. Both countries were suffering severe financial stringencies but liberal private subscriptions were made to pay the expense of returning and caring for the exiles. A transport was anchored in Arica harbor to house the Peruvian commissioner and staff of assistants, and barracks were provided on shore for the accommodation of returned voters. On board the transport Peruvians began to publish an organ devoted to their cause, *La Voz del Sur*. This was considered a resumption of the publication of the paper by the same name which in 1911 had been destroyed by Chilean mobs. The Chilean side of the controversy was taken up by local papers and soon a newspaper war raged which revived past animosities and created new ones.

Trouble followed the revival of the question in the press and the arrival of the first Peruvian. There were soon minor clashes of nationals and the commission was faced with the difficult task, it should be said the impossible task, of arranging a satisfactory election where no election was really wanted by either side and where one side was in control of the local government. It would have been as easy to have held a fair election in Alsace-Lorraine in the moments of its bitterest hatreds without neutral police authority.

Uninformed opinion in some quarters of the United States suggested that the members of the commissions from the United States were untactful. The Chilean press, furthermore, complained of the lack of linguistic qualifications of some of the advisers attached to the mission. However, the most accomplished diplomats could not have carried out the terms of the award satisfactorily under the circumstances. Now what were these circumstances which were so exceptional? What was the historical background of this question that has disturbed the peace of South America for over a half century?

The necessity of a thorough consideration in the United States of the question and its antecedents is more apparent when the responsibility of our government is considered. The present Harding-Coolidge arbitration is really the inheritance of a matter in which secretaries Evarts, Blaine, and Frelinghuysen had failed, but of course with the advantage that the efforts of the Coolidge administration could not very well end in a congressional investigation as those did.³⁷ It would be as difficult to appreciate the Chile-Peru arbitration without the historical background as it would be to understand the difficulties of reconstruction in Georgia without knowing something of Sherman's march to the sea and the bitterness of the slavery question. The northward expansion of Chile and the War of the Pacific will therefore have to be considered to appreciate the greater Tacna-Arica question.

The War of the Pacific which caused the Tacna-Arica question had its origin in a strange but fabulous source of wealth discovered along the desert coasts of Peru, Bolivia and Chile. A hundred years ago the only living things to be seen along hundreds of miles of coast were myriad flocks of sea gulls whose deposits whitened the bare islands and bleak cliffs. The original northern limits of the republic of Chile came to this desert, called Atacama. At the southern edge of the desert just north of the Copiapó Valley is a salty ravine known as the Río Salado situated near 26° 30' S.L. which had been the colonial boundary.³⁸ The first constitution of Chile gave merely the "Desert of Atacama"³⁹ as the northern boundary.

The roots of the Tacna-Arica question are deeply embedded in the geography and geology of the coast northward from the edge of that desert. Her expansion beyond that line at the expense of Bolivia and Peru was due to the discovery about 1835 of the great value of the immense deposits of saltpeter in the desert and the guano deposits along the coast. The term *guano*, or *juano* by Chilean spelling, comes from the Inca words *pishu huanu* meaning bird dung.⁴⁰ The dry climate had preserved the deposits of billions of sea gulls for centuries of time.⁴¹ In some cases capes and islands

³⁷ *House Reports, 47th Congress, 1st Session*, Vol. VI, Report No. 1790, all. Also see *infra* introduction to Doc. 77.

³⁸ Reports of Bland and Poinsett, *infra*, Doc. 3. Also map, *infra*, Doc. 1.

³⁹ Extracts from Constitutions of Chile, *infra*, Doc. 4.

⁴⁰ Von Tschudi, J. J., *Travels in Peru*, Vol. I, p. 168, footnote.

⁴¹ Coker, R. E., "Peru's Wealth-Producing Birds," *National Geographic Magazine*, June 1920, Vol. XXXVII, No. 6, pp. 536-566.

were raised thereby fifty feet above their original elevation. Since loading was a simple process and freight rates on sailing vessels cheap, it can easily be seen that fabulous wealth existed there for the product, often sold at \$80 a ton. All the wealth of Pizarro and Cortés and their followers is a small item compared to what this desert has yielded. Counting both the guano and the nitrates from the saltpeter mines or quarries the wealth derived from this coast has exceeded that from all the gold and silver of the Andes. This was the prize of the war which began the question of Tacna-Arica. Of course the extent of the wealth was not then realized, but it became known as Chile expanded northward.

It is not the purpose of this work to condemn or justify the great expansion of Chile in her penetration into the desert riches. That expansion was the result of historical forces and coincidences quite unique. A Chilean president, when he learned of the value of guano, issued a decree claiming two degrees of Bolivia's coast⁴² and supported it as tenaciously as did the United States government some of its claims to the Canadian fisheries. Bolivia protested, but was careless of the regulation and development of capitalistic enterprise in the desert. Soon British and Chilean capital with Chilean labor was conflicting with Bolivian governments over concessions. An attempt was made to share the profits and an entangling alliance was formed.⁴³ A filibustering expedition backed by Valparaiso capital tried to overturn Bolivian authority. Peru and Argentina became alarmed at the expansion of Chile and Peru formed a defensive alliance with Bolivia known as the "secret treaty."⁴⁴

Huge nitrate interests also soon became an object of rivalry. If the great banking groups of Europe, Valparaiso, and Lima had agreed in an economic policy there would have been no war, for the government of Chile had to be dragged into war, while Bolivia and Peru were completely unprepared. One group of capitalists tried to form a world monopoly of the sale of nitrates⁴⁵ and share the proceeds with the government of Peru. Another group favored the working of the nitrate industries by corporations independent of the government, except that high officials were to own stock. In

⁴² See *infra*, Doc. 14.

⁴³ See *infra*, Doc. 20.

⁴⁴ See *infra*, Doc. 23.

⁴⁵ Flint, Chas. R., *Memories of An Active Life*, p. 66.

trying to monopolize her part of the industry Peru forced the sale of the mines in her territory and issued certificates in payment. Holders of those certificates and holders of mortgages on guano deposits owned by the government who feared losing their heavy investments evidently brought on and directed a war to put the whole industry under the Chilean flag. To-day this seems strange in the age of many splendid corporations which at present have a high moral and beneficent influence in Latin America. But it should be remembered that that was the primitive age of the Credit Mobilier in this country.

The above statement of the cause of the war seems at first extreme, but is well substantiated. The Chilean Minister of Public Works credited the bondholders with enough complicity to have convicted them of financing the war and of arranging the European end of diplomacy and munitions buying.⁴⁶ James G. Blaine who tried so hard to bring peace to the nations that were the victims, in the investigation which Congress made of the efforts of our State Department to secure peace, said that it was not a war between Chile and Peru, but between British capitalists and Peru.⁴⁷ He gave two statements as evidence, one that nitrate capitalists had tried to purchase ships in the United States before the war began, the other that those capitalists and the Chilean government divided the spoils equally. The statement regarding the spoils referred to Article IV of the Treaty of Ancón.⁴⁸

The greater Tacna-Arica question is worthy of study in the United States not merely because of its great international ramifications historically and because of the former American interventions which left this country a responsibility in the matter, but also in its own right and merits. In it are involved many and interesting political and economic questions such as the principle of the *uti possidetis*, the fluvial doctrine of dividing a desert, the question of outlets to the seacoast, the nature of a plebiscite, the relation of mediation to intervention, the Drago or Calvo Doctrine, and the Monroe Doctrine.

The following collection of the most important documents relating to the question which undoubtedly is greater than the mere

⁴⁶ See *infra*, Doc. 49.

⁴⁷ Blaine, James G., testimony, *House Reports, 47th Congress, 1st Session*, Vol. VI, p. 217.

⁴⁸ For text of this treaty see *infra*, Doc. 82.

manner of holding a lapsed plebiscite is submitted not as a complete history of the case, but as an outline of its basic principles, with the hope of stimulating further study into this and other important phases of South American history.⁴⁹

⁴⁹ For a brief resumé of the Tacna-Arica question see, Dennis, W. J. "Uncle Sam's Part in a South American Quarrel," *Our World*, Vol. V, No. 3, p. 13; also a summary, largely from Chilean bibliography, by Bradenburger, Clemens "Tacna und Arica. Der Kampf um den Salpeter," *Ibero-Amerikanisches Archiv*, pp. 205-236. For a more extended treatment of the Coolidge Award see Stuart, Graham H. *The Tacna-Arica Dispute*, World Peace Foundation Pamphlets, Vol X, No. 1, 1927, Boston. And for a statement from the standpoint of international law see, Borchard, Edwin M. *Opinion on the Controversy Between Peru and Chile*, Washington, 1920. For official statements of the question the *Cases and Countercases* of Chile and Peru before the Arbitrator may be secured from their respective embassies. There is a great mass of secondary material that has been written during the long controversy, but it is believed that the following ninety documents and extracts furnish the essential sources for a study of this famous international controversy.

PART I
DOCUMENTS RELATING TO CAUSES OF THE WAR
OF THE PACIFIC

No. 1. OFFICIAL COLONIAL MAP OF POTOSI, 1787

INTRODUCTION AND SOURCE.—Since the greater Tacna-Arica question is a result of the clash of Chile with Bolivia in the former's northward expansion along the coast it will be necessary to trace that expansion. When the South American republics secured their independence they took as a rule the boundaries existing as colonies of Spain in 1810, the year the revolutionary wars started. This principle, called the *uti possidetis of 1810*, never had any formal declaration but was well stated by Bolivar, was usually accepted in practice, and tacitly sanctioned by the various treaties which recognized the independence of the Latin American republics.

The colony of Chile was a presidency under Spain and nominally a subdivision of the viceroyalty of Peru, although at the opening of the nineteenth century it enjoyed colonial autonomy except as to military matters. Just north of it was the province of Potosí, a division of the *audiencia* of Charcas, which became Bolivia. This division and modern Argentina, Uruguay, and Paraguay were under the viceroy of Peru until 1776 when the new viceroyalty of Buenos Ayres was formed and they were included in it. This was the political status when republics were formed out of the colonies. The northern limits of Chile had been the Desert of Atacama which begins a short distance north of the valley and the city of Copiapó. The sphere of influence of that colony extended to the Río Salado. North of this lay the province of Potosí as shown by the following map, which was made in 1787 for Pedro Vicente Cañete, the Governor of Potosí, by Hilario Malaver, the inspector of the royal mint. The map is interesting as a piece of cartography as well as in its bearing on the line between Chile and Bolivia. The top is south and the right hand west. Looked at from the west coast the crest of the Andes which are represented by a profile is the top of that part of the map and east.

This map is a photostat copy of the original in the archives of the Indias in Seville in a manuscript book entitled "Geographic, Historical and political description of the Imperial Town and Rich Mountain of Potosí; of the districts of Porco, Chayanta, Chichas or Tarija, Lipez and Atacama." Besides a copy of the map of the whole province an enlargement is given showing the coast, looking to the east to the Andes as its top. This enlargement shows the district of Atacama, or *Partido de Atacama*, as limiting Chile on the north. The dividing line is seen intersecting the Pacific Ocean, *Mar Del Sur*, at the Río Salado. Although the boundary lines around the province and between its six districts are drawn in colored lines, the maker of the map also notes just south of the river and boundary line, "*División del Reino de Chile.*"

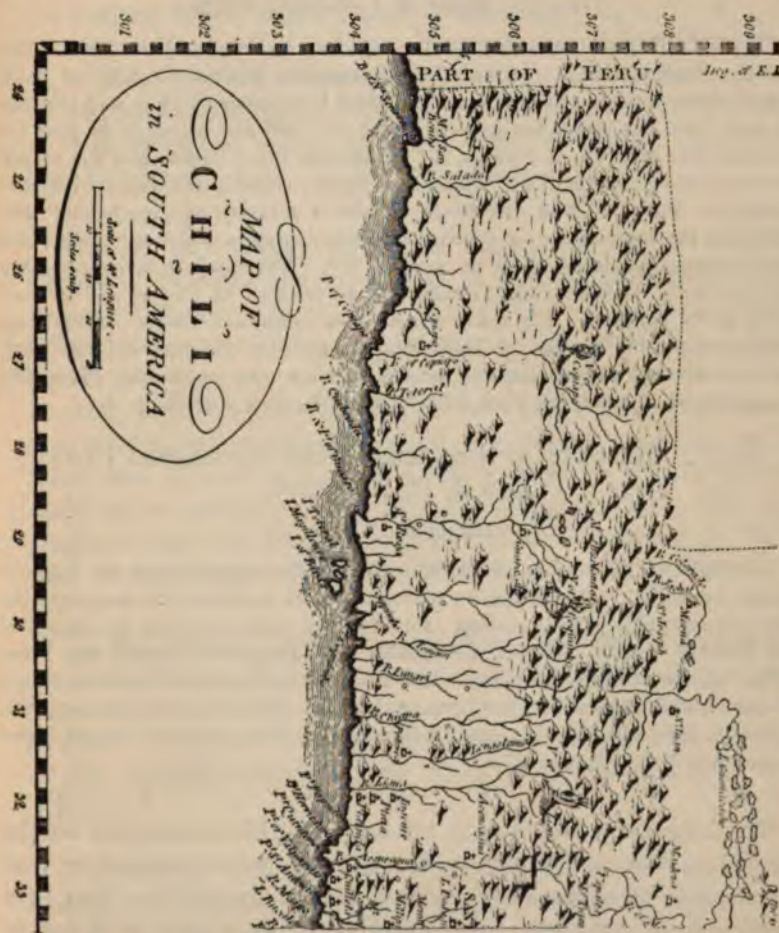


Official map, in 1787, of Potosi the southern province of Chacabambas [Bolivia] showing the Chilean boundary at Rio Salada. This rare map from the archives at Seville has the top at two sides, the south and east. Looking south the Mar Del Sur [Pacific Ocean] is seen on the right hand side; looking east the profile drawing of the Andes shows it may be used for the top of the map. See text p. 30.



Enlargement showing the coast.

This boundary line as indicated by the scale of latitude on the margin is near parallel 26° and is given in the manuscript as 26° and $15'$.¹ This is extremely important because that is approximately the latitude given on modern maps for the River Salado. At the period of independence many maps such as that of I. Riley and many writers showed a difference of one degree and twenty minutes in locating coast points.² By an erroneous scale the coast of Chile was shown on Riley's and on some other maps to reach beyond parallel 24°



Map from I. Riley's translation (1808) of *Natural and Civil History of Chile* by Abbe J. Ignatius Molina, 1776. At the latter date most of Spanish South America was a part of the viceroyalty of Peru. Chile was a part, but had local autonomy as a colony. See text pp. 32.

¹ *Revista de Archivos Bibliotecas Y Museos*, Vol. II, p. 587.

² See Document No. 2, *infra*.

and Chile later claimed to parallel 23° after Bolivia had claimed to parallel 25°. Riley's map, however, shows Chile as extending only to the Bay of Nuestra Señora, or Paposo, which by correct scale is at 25°. The importance of the following map is that it shows the boundary near the date of independence to have been at the "Rio Salado" and gives the correct latitude for the point. From *Archivo General de Indias*, 121-7-25-No. 145.

NO. 2. MAP OF I. RILEY, 1808

INTRODUCTION AND SOURCE.—This map was made by or for I. Riley for his English edition (1808) of Abbe Ignatius Molina's history of Chile compiled about 1770. It does not show exact boundaries of Chile and Chareas at that date, but shows the general extent of Chile and attempts to give degrees of latitude. On it parallel 25° crosses the River Salado and the colony seems to extend north to 24° which is shown as crossing the Bay of Nuestra Señora or Paposo. Now the River Salado is actually at parallel 26° 20'. Applying the correction of a degree and twenty minutes this map would place the northern extent of Chile at parallel 25°. This map is interesting for two reasons. It shows Chile as extending to the Bay of Paposo and it is in error as to parallels. For many years other maps were based on the map accompanying the history of Molina rather than on the text of that work and an error of one degree and twenty minutes was continued. From *The Geographical Natural and Civil History of Chile*, map opposite p. 1.

NO. 3. REPORTS OF COMMISSIONERS THEODORIC BLAND AND J. R. POINSETT

November 2, 1818

INTRODUCTION AND SOURCE.—The Chilean proclamation of independence, January 1, 1818, makes no reference to the limits of the new republic, but the reports of the American commissioners who were sent to report on the country with a view to recognizing its independence show the River Salado as its northern boundary. The first five excerpts are from the report of Mr. Bland, *American State Papers, Foreign Relations*, Vol. IV, pp. 295, 296, 298, 300, and 310; the other four are from Mr. Poinsett's report, same source, pp. 332, 333, and 337.

• • • • •

The long and mountainous territory of Chili commences on the Pacific at the mouth of the Rio Salado; thence, ascending that river, and extending away from it toward Paquil by a line in a northeasterly direction, over a portion of the frightful desert of Atacama beyond the twenty-fourth degree of south latitude, until it intersects the great chain of the Andes covered with perpetual snows; thence, turning directly south, and taking for its boundary the summit of the most elevated Cordillera, and continuing along

it south, embracing what is sometimes called New Chili, or the land of Magellan, until it reaches the strait of the same name; . . .

* * * * *

. . . After passing this comparatively unproductive but golden region, whose riches chiefly lie hid beneath its surface, he might be received into the wretched casucha of a vicuna hunter on the banks of the Salado, the northern boundary of the state, and on the confines of the dreary desert of Atacama, . . .

* * * * *

. . . The desert of Atacama may be said to commence in Chili, almost immediately after crossing the river Juneal, or Dry river, as it is sometimes called; thence to the river Salado, the northern boundary of the state, is a distance of fifty miles; . . .

* * * * *

. . . All the civilized or Spanish population, except the small parcels of Valdivia and the islands, is situated altogether north of the river Biobio; and if, from this portion of Chili, is deducted all that dry unproductive district to the north of the river Juneal, which, except a few vicuna hunters, has not an inhabitant upon it, then it will appear that nearly the whole of this population of one million two hundred thousand is seated on perhaps less than two-thirds of that extent of territory which is generally understood to be comprehended under the name of Chili. The entire length of the state from the straits of Chacao to the river Salado, may be estimated at about nine hundred miles; . . .

* * * * *

. . . The port of Cobija, situated about three hundred miles south of Arica, on the Rio Salado, and two hundred and sixty miles beyond the river of the same name, which is the northern boundary of Chili, was also remarkable as another of the ports whence some of the precious metals of the mines to the eastward of it got abroad . . .

* * * * *

The distance from the Cordilleras to the Pacific ocean is thirty leagues, between the latitudes of 25 degrees and 36 degrees south; and 40 leagues, between 36 degrees and 43 degrees south.

The country comprised between the 25th and 43d degrees of south latitude may be considered the length of the kingdom of Chili, it being unsettled, and even unexplored, farther south.

* * * * *

. . . The climate makes this method of cultivation [irrigation] absolutely necessary; for from the Salado to the Itata, that is, from 25 degrees to 36 degrees of south latitude, not a cloud is to be seen above the horizon from the month of November to the month of May. . . .³

* * * * *

. . . The town of Copiapo is situated in 26 degrees 50 minutes south latitude, twenty leagues from the coast.⁴ It is small and inconsiderable; for the only part of this district capable of cultivation is the narrow valley which extends from the Cordilleras to the town, the river losing itself in the sands between the town and the ocean. South from the Hospederia de Yerba Buena extends a desert tract (*travirsia*,) about thirty leagues to the border of Guasco.

La Caldera Copiapo, the port, is situated in 26 degrees 1 minute south latitude.

* * * * *

The intendency of Potosí extends on the north to the districts of Yamparaes and Tomina, in Chareas; south to the district of Jujuy, in Salta; it reaches west to the Pacific ocean, and is bounded on the east by Cochabamba.⁵ The districts of this intendency are Porco, Chayanta, Chicas, Tarija, Lipes, and Atacama, which last is separated from the province of Arica by the river Loa, and from Chili by the desert of Atacama. . .

* * * * *

NO. 4. CONSTITUTION OF CHILE OF 1823

INTRODUCTION AND SOURCE.—Neither in the proclamation of independence of 1818 nor in the circulars to foreign officials announcing the birth of the nation was any mention made of national boundaries. The constitutions merely gave "the desert of Atacama" as the northern limit. The following excerpt is from *British and Foreign State Papers*, Vol. X, p. 1076.

* * * * *

Title I, Art. 4. The Territory of Chile, North to South, extends

³ It will be noticed that Poinsett gives the River Salado as the northern limits of Chile and also that he gives its latitude as 25°, the same as Molina gave it,—both being in error as to latitude.

⁴ His location of Copiapó at 26° 50' instead of its actual location at 27° 32' indicates he used Molina's map, but all agree on Salado, the latitude of which was later found to be 26° 20', as the northern limits.

⁵ This description of Potosí refers to that part of Chareas (Bolivia) lying just north of Chile. See Doc. 1.

from the Desert of Atacama to Cape Horn; and East to West, from the Pacific Ocean, including all the adjacent Islands, the Archipelago of Chiloé, and the Islands of Juan Fernandez, Mocha, and Santa Maria, to the Mountains of the Andes.

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No. 5. BOLIVIAN CONSTITUTION OF 1826

INTRODUCTION AND SOURCE.—When Bolivia was formed out of the old Audiencia of Charcas it took, with respect to the part touching Chile, the same colonial divisions. The department of Potosí bordered Chile on the north.⁶ Citation from *British and Foreign State Papers*, Vol. XIII, p. 875.

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Title I, Chap. 2, Art. 3. The Territory of the Republic of Bolivia comprehends the Departments of Potosí, Chuquisaca, La Paz, Santa Cruz, Cochabamba, and Oruro.

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No. 6. REPORT OF COLONEL O'CONNOR ON BOLIVIAN PORTS

1826

INTRODUCTION AND SOURCE.—One of the first acts of the government of the new republic of Bolivia was to send an officer of the army, Colonel O'Connor, to explore the coasts for the purpose of finding a good seaport, independent of Arica, Bolivia's natural port, which belonged to the republic of Peru. He made the following report to President Sucre. Translated from Prescott,⁷ *El Problema Continental*, p. 19.

* * * * *

On the following day we began the examination of all the ports mentioned in my instructions, and we found that that of Cobija had the best depth for anchorage, and it is the most spacious port also; although fresh water is scarce it is possible to augment the quantity. I separated from the *Comodoro* in the port of Loa, which is no more than a roadstead, and with the water of the River Loa so salty it can't be drunk. The port of Mejillones is beautiful, but lacks water. That of Paposo has a river with fish that enter it, but the route from Paposo by land to Atacama [town] hasn't a drop of water or pasture, and for this reason is unusable.

* * * * *

The limits then, [when Buenos Ayres became a viceroyalty,]

⁶ See map of Potosí, Doc. 1, supra.

⁷ This work was compiled by Arno brothers, editors and publishers, at La Paz in 1921, under the name of "Prescott."

extended from the gorge of Santa Rosa, *La Abra de Santa Rosa*, on the north, the Morro of Sama on the coast, and from said Morro south to Hueso Parado which is within a few leagues of Copiapo, and in the uplands south to the river of Quiaca.

* * * * *

No. 7. CONSTITUTION OF CHILE OF 1828

INTRODUCTION AND SOURCE.—Chile adopted a new constitution in 1828 with about the same description of territory as appeared in that adopted in 1823. From *British and Foreign State Papers*, Vol. XVI, p. 1048.

* * * * *

Title I, Art. 2. Its Territory, from the north to the south, extends from the Desert of Atacama to Cape Horn; and, from east to west, from the Chain of the Andes to the Pacific, with the Islands of Juan Fernandez, and those adjacent. It is divided into 8 provinces, viz.: Coquimbq, Aconcagua, Santiago, Colchagua, Maule, Concepcion, Valdivia and Chiloé.

* * * * *

No. 8. MESSAGE OF PRESIDENT ANDRES SANTA CRUZ OF BOLIVIA

June 24, 1831

INTRODUCTION AND SOURCE.—The importance of seaports was appreciated by Santa Cruz as may be seen from this extract from his message. The translation is from *British and Foreign State Papers*, Vol. XVIII, p. 1282.

* * * * *

The political existence of Bolivia was problematical, whilst it was unprovided with a convenient Port, for its communications with other Nations, and for the purposes of commerce, unshackled by foreign Laws or by the regulations of its Neighbours. The Government, therefore, directed its earnest attention to the formation of such a Port, undismayed by obstacles which appeared to be insurmountable. A local Coast Authority, incorporating the Province of Atacama within it, was established by a Decree. The contributions paid by the natives, and the proceeds of the Customs, have been appropriated to the levelling of the roads, the erection of a pier, and the warehouses and other buildings necessary for business, and to the encouragement of a Population. Peculiar and exclusive advantages have been held out by the Customhouse Regulations, in order to attract Merchants to Cobija, and various meas-

ures have been adopted for the establishment of posts, and for facilitating the transport and conveyance of goods; in consequence of which, Cobija has become a much frequented Port, possessing several foreign Commercial Establishments, and a Population continually increasing. In the year 1830 no less than three-fourths of our articles of consumption were entered at that Port: this has given a great impulse to the trade and agriculture of the Provinces of Atacama, Chichas, and Tarija, which, for want of a channel of communication with the exterior, languished in indigence and inactivity. Judging from the improvement effected in this Port within the 2 years of my Administration, and the advantages it has afforded to the rest of the Republic, very important and beneficial results may reasonably be expected from it hereafter.

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No. 9. CONSTITUTION OF BOLIVIA

August 14, 1831

INTRODUCTION AND SOURCE.—With the growing importance of the seacoast as an outlet the Sea Coast Province was created from a part of Potosí,^s and is mentioned in the constitution of 1831. From *British and Foreign State Papers*, Vol. XX, p. 818.

* * * * *

Title I, Chap. 2, Art. 3. The Territory of the Bolivian Nation comprehends the Departments of Potosí, Chuquisaca, La Paz, Santa-Cruz, Cochabamba, and Oruro, the Sea Coast Province, and that of Tarija.

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No. 10. CONSTITUTION OF CHILE, 1833

INTRODUCTION AND SOURCE.—This constitution, under which Chile was governed for half a century, also used the general term "desert of Atacama" for its northern boundary. The continued omission of definite limits is probably due to the fact that the desert was considered as beginning at the River Salado. This article of the constitution is from *British and Foreign State Papers*, Vol. XX, p. 557.

* * * * *

^s The Sea Coast Province comprised approximately the former district of Atacama and its capital was Cobija. The name "Atacama" however continued in general use for Bolivia's seacoast, and Chile also gave that name to her part of the desert near Copiapó.

POLITICAL CONSTITUTION OF THE CHILEAN REPUBLIC

CHAPTER I. OF THE TERRITORY

Art. 1. The Territory of Chili extends from the Desert of Atacama to Cape Horn, and from the Cordilleras of the Andes to the Pacific Ocean, including the Archipelago of Chiloé, all the Islands adjacent, and those of Juan Fernandez.

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No. 11. MESSAGE OF ANDRES SANTA CRUZ, PRESIDENT
OF BOLIVIA

August 6, 1834

INTRODUCTION AND SOURCE.—The following paragraph from the message of President Santa Cruz to congress in 1834 shows the persistence of Bolivia to improve its coast region as a means of maintaining connection with the outside world. From *British and Foreign State Papers*, Vol. XXIII, p. 160.⁹

* * * * *

The Provincia Litoral and the Port of Cobija have made a rapid progress in every respect, in consequence of the Decree exempting them from the payment of duties (*Derecho de Franquicias*) granted them by the Government, upon your authority. Their population and institutions have wonderfully increased; and by the impulse already given, we may indulge the hope that, before 10 years have elapsed, that province will become one of the richest of the Republic. The copper of its mines is one of its most valuable productions, and which, by the large returns it makes for the investment of capital, daily increases competition. The Government, which has always been convinced of the necessity of maintaining a secure means of communication with the exterior, has continually afforded Cobija the assistance to which it is so much entitled, and which may be considered as indispensable to our very independence.

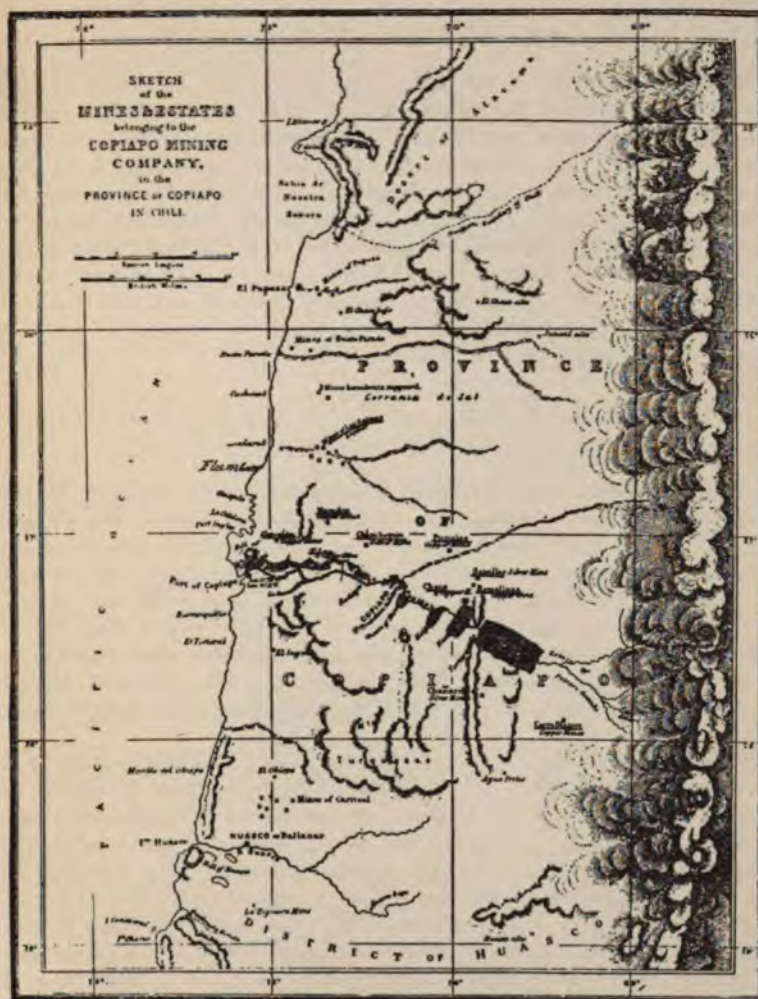
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No. 12. MAP OF GEORGE BINGLEY OF COPIAPO MINING CO.
LTD., 1835

INTRODUCTION AND SOURCE.—In 1832 valuable deposits of copper and silver were found near Copiapó, Chile, and a mining boom followed. However, while Chile's northernmost department, Coquimbo, developed greatly,

⁹ "Provincia Litoral" is here used for "Sea Coast Province" or "Atacama." See footnote to Doc. 9, *supra*.

this map made by the English manager of a large mining and grazing company, shows that its sphere of influence had not extended into the desert of Atacama beyond Paposo, or parallel 25° as claimed by Bolivia. This map¹⁰



Map attached to a letter dated April 30, 1835 from George Bingley, manager of a mining company to its directors. Photographic copies were made by Isaiah Bowman of the American Geographic Society and reproduced here, by permission, from *Desert Trails Of Atacama*, p. 177, by Isaiah Bowman. See text.

¹⁰ Used by permission of Isiah Bowman, Director of the American Geographical Society.

is from *Desert Trails of Atacama* by Isaiah Bowman, p. 177, and is important evidence in the case for it is the work of a neutral observer who lived near the boundary line.

No. 13. MAP OF J. N. NILES, 1837

INTRODUCTION AND SOURCE.—The author does not state on what source his map is based, but he credits much of his account to Commissioner Bland and it is probable that the map is from those sent by Bland to accompany his report.¹¹ It is significant for it shows Chile as extending to about the same latitude as shown on Mr. Bingley's map¹² and Bolivia as extending to parallel 25 or Paposo. The no-man's-land between Chile and Bolivia appearing in the map is represented by the color of the United Provinces [Argentina] which would indicate that Chile as a part of the viceregal province of Buenos Ayres did not include the desert of Atacama and that it and its sphere of influence extended just to parallel 25 or Paposo. From *South America and Mexico*,¹³ by J. N. Niles, Vol. I, p. 168.

No. 14. GUANO MESSAGE OF PRESIDENT MANUEL BULNES OF CHILE, 1842

INTRODUCTION AND SOURCE.—During the decade beginning in 1830 important developments occurred in Chile. Following a few years of post-independence struggles over a form of government and the personalities of leaders, a constitution was adopted in 1833 which gave dictatorial powers to the president. Governed by an efficient aristocratic oligarchy and shut off by natural barriers Chile attained national solidarity sooner than did her neighbors. The discovery of copper along her northern settlements caused her sphere of influence to ebb and flow in the edge of the Desert of Atacama as mines were discovered or abandoned, presaging the far northern expansion soon to take place.

The expansion of Chile northward had its roots in her intervention in the Bolivia-Peru Confederation of 1837. President Santa Cruz of Bolivia had been drawn into a civil war in Peru and had turned it to his own account by forming a confederation of the two nations dominated by himself. Chile at this time had as Minister of State an able statesman, Diego Portales, who thought he saw danger in the existence of the confederation and soon found an occasion to oppose President Santa Cruz. The latter sold some Peruvian ships to an exiled ex-president of Chile, whereupon the Chilean Minister seized the vessels and others belonging to the Confederation and prevailed upon the President of Chile to declare war against President Santa Cruz. In the first expedition General Santa Cruz was victorious, but in a second Chile won with

¹¹ For the report of Commissioner Bland see supra Doc. 3.

¹² See supra Doc. 12, for the map of Mr. Bingley.

¹³ Published by H. Huntington Jr., Hartford, 1837, and its full title is *History of South America and Mexico; Comprising their Discovery, Geography, Politics, Commerce and Revolutions. To which is annexed a Geographical and Historical view of Texas with a detailed account of the Texian Revolution and War.*



Map from *South America And Mexico*, p. 168, published in 1837. Authorship is attributed to Sen. J. N. Niles, but it appears to have been compiled by editors from government documents and other sources. That portion of the desert between Chile and Bolivia, unoccupied and unclaimed by either, is shown to belong to United Provinces [Argentina].

the aid of ex-president Agustin Gamarra who was restored to the presidency of Peru by the Chilean general, Manuel Búlnes. In the association of President Gamarra and General Búlnes are found the germs of the later trouble between Chile and Peru, although they were friends and Santa Cruz their common enemy. General Gamarra, always needing funds personally and officially, began to realize secretly on the sale of guano in Europe.¹⁴ In the crisis of his wars against Bolivia he received \$800,000. It is probable that Búlnes' expedition was armed by Gamarra with money from guano sales. Its source was a mystery in Chile at the time and foreign observers attributed it to the church.¹⁵ Gamarra also funded the Peruvian share of the loan which Chile had made in London during the wars for independence. This was done by allotting a portion of the proceeds of guano sales in England to the payment of the loan.

When General Búlnes returned to Chile he was elected president. In his message to the congress of 1842 he made the following self-explanatory statement, translated from Gonzalo Búlnes' *Guerra del Pacífico*,¹⁶ Vol. I, p. 13.

Fellow citizens of the Senate and of the Chamber of Deputies. Being now recognized in Europe the value of the substance called juano, which from time immemorial was used as fertilizer for the cultivation of the soil of the coast of Peru, I judged it necessary to send an exploring commission to examine the coast included between the port of Coquimbo and the Morro of Mejillones with the purpose of discovering if in the territory of the Republic there existed any guano fields whose product might afford a new source of revenue for the public treasury, and although the results of the expedition are not so much as had been thought, nevertheless, from parallel 29°35' to 23°5' south latitude guano is found in sixteen places of the coast and nearby islands in more or less abundance, according to the nature of the localities in which those deposits exist.

Far from presuming after the examination made, that the juano fields of Chile have the importance attributed to those of Peru, I am inclined to believe that the benefits to be derived will be small, but even so that would not excuse the leaving of its exploitation to foreign enterprise, depriving the national treasury of an income which without cost to the people would furnish funds for so many useful enterprises which need effective aid.

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¹⁴ *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 662.

¹⁵ Wilkes, Charles, *Narrative of the U. S. Exploring Expedition*, Vol. I, p. 225.

¹⁶ Búlnes' history so often quoted in this work, is in three volumes, published at Valparaiso in 1912, 1914, and 1919 respectively.

NO. 15. MAP AND STATEMENT OF LIEUT. J. M. GILLISS,
1849-1852

INTRODUCTION AND SOURCE.—The message of President Búlness virtually placed the northern boundary of Chile at parallel 23°. Congress soon passed unanimously a resolution approving the action and prescribing the penalty of confiscation for taking guano from the coast without a Chilean



Map of Lieutenant J. M. Gilliss who conducted a naval astronomical expedition to South America in 1847 and 1852. He shows the boundary between Chile and Bolivia at 25° and terms it, "Supposed boundary." See text p. 43.

license. Bolivia protested and negotiations between the countries continued for twenty-one years. Chile secured scientists and geographers and both countries cited colonial decrees and orders. Bolivia held the doctrine of the *uti possidetis* which would place her boundary at the River Salado. Chile held that the *uti possidetis* was a sort of nominal understanding adopted when the colonies revolted, for the purpose of preventing the occupation of unsettled territory between them by European powers on the ground of *res nullius*. Sometimes during the controversy Chile claimed half the desert by the fluvial doctrine of jurisdiction extending to the middle of the river.

From time to time guano shippers working under licenses from the rival governments were expelled from regions near Mejillones which became a point of entry for Chilean and British guano exploiters operating from Valparaíso. Cobija was the seat of local Bolivian government. However Bolivia maintained her jurisdiction most of the time over the disputed territory between parallels 23 and 25 up to 1857. The most noted instance was the case of a Chilean vessel, the *Lucow*, against which the Bolivian consul in London won a suit for having smuggled guano. The following statement and map are from Lieut. J. M. Gilliss, *The United States Naval Astronomical Expedition to The Southern Hemisphere during the years 1849-'50-'51-'52*. Vol. I, p. 44, and map, *frontispiece*.

* * * * *

. . . Elsewhere it has been said that Chile claims to the 24th parallel of latitude. In the instructions of Capt. Fitzroy, R. N., to one of his officers about to leave on detached service, he says: "remember that Paposo is the northernmost inhabited place over which the government of Chile has authority;" and by the observation of that officer, Paposo was found to be in latitude 25° 2' 30". Native writers on geography, speaking of the boundaries, say: "On the north by the desert of Atacama,"—a broad tract several degrees in width; so that where Bolivia begins and Chile terminates, is yet to be decided. I have copied a boundary line, as far as it is laid down, from a MS. map in my possession, compiled from data furnished by Don Bartolomé Navarete.

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No. 16. MESSAGE OF JOSE JOAQUIN PEREZ, PRESIDENT OF CHILE

June 1, 1863

INTRODUCTION AND SOURCE.—After the Bálnes message which claimed parallel 23 as the northern limits of Chile that government did not try to maintain the claim by acts of possession until 1857. A desultory diplomatic debate with Bolivia was carried on but Chile remained passive even when Chilean guano operators and captains of frigates came into conflict with local Bolivian authorities from Cobija and Mejillones. However, in 1857

while the factions of José M. Linares and Jorge Córdoba were fighting in Bolivia, Chile officially entered the nitrate dispute by landing soldiers on a recently acquired steam corvette, the *Esmeralda*. Mejillones was taken and operators ordered to quit work or to get Chilean licenses. The fact that Bolivia now ceased fighting and the government sent an envoy to Santiago who at first demanded the disoccupation of Mejillones as a *sine qua non* for discussion. This Chile refused. A second agent offered to let a neutral arbitrator decide, but Chile refused and offered to divide the disputed territory. As far as the matter had not occupied the government at Santiago very seriously, being largely of interest to the shippers of Valparaíso, but in 1863 the President's message had the following relative to the subject showing that the question had become one of national import. From *British and Foreign State Papers*, Vol. LIV, p. 991.

I have hopes of the renewal, within a short time, of the negotiations formerly initiated for the arrangement of a Treaty of Limits with the neighbouring Republic of Bolivia. That government has lately accredited a Diplomatic Agent for that purpose to whom it has been made known that we are ready to commence the discussion.

The importance which that part of our territory has lately acquired will not influence the government or the people of Chile to swerve from the rules of justice which have always guided us in international questions, and which must also guide us in the decision of that pending with Bolivia.

Although the recent protests of the Bolivian Government are not consonant with the friendly and fraternal sentiments which I professes I trust that a calm examination of the titles adduced by both parties may lead to a solution that shall put an end to the present dispute.

NO. 17. MESSAGE OF PRESIDENT JOSE MARIA DE ACHACER BOLIVIAN CONGRESS

August 18, 1863

INTRODUCTION AND SOURCE.—When Bolivia awakened to the importance of her coast region it sent an able envoy, Dr. Tomás Frías, who attempted to make a treaty to settle the boundary question. He was more temperate than the President and Congress whose discussions of the subject, a part of which follows here, retarded the success of the mission. Taken from *British and Foreign State Papers*, Vol. LV, pp. 860-861.

In conformity with the Law passed by you on the 27th of

last, my Government has appointed a Mission of the first class to the Cabinet of Santiago, and it has been confided to Don Tomás Frías. Its object is to open final negotiation for the purpose of reclaiming our bay and coast of Mejillones, causing the Government of Chile to hear once more the clear echo of the right and justice by which Bolivia is supported in this demand.

Notwithstanding the spirit of rectitude and justice displayed in the language of the President of Chile, in his message to the National Congress assembled last June, on the subject of this question, I regret to announce to you that the acts of his Government unfortunately do not correspond with the ideas enunciated in that document. In the Message, the President promises that the importance which the coast of Mejillones has recently acquired (and he designates it a part of the Chilean territory, at the same time admitting it to be doubtful) will not influence Chile and its Government to swerve from the path of justice, which has always been their guide in international questions, and which they must also follow in the decision of the one pending with Bolivia. He therefore trusts that, by means of a dispassionate examination of the titles produced by the two parties, such a solution may be obtained as shall terminate the present misunderstanding. Notwithstanding, the very same President himself who in those sentences appears animated with such high sentiments of equity, a few days later presented to Congress a Project of law in which, feigning entire forgetfulness of, and the most outrageous contempt for, the rights of Bolivia to the disputed coast, he proposes the adoption of several administrative measures for the more profitable working of the guano deposits of Mejillones, and the establishment of a port of the first order in that bay, disposes of that territory, and in short, legislates with regard to it as if it were undisputably Chilean.

Let us, await, however, the result of the Frías Mission, which for national dignity cannot be other than the final one. Let us await, I say, that result, without abandoning the hope that the Cabinet of Santiago may at length recognize our rights which are imprinted on the conscience of the entire continent, and that by the restitution of the Coast of Atacama, which it at present occupies, it may give a splendid proof that it knows how to appreciate the reputation for honor, circumspection, and prudence by which until now it has been distinguished among the South American Republics.

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No. 18. MESSAGE OF JOSE JOAQUIN PEREZ OF CHILE

June 1, 1864

INTRODUCTION AND SOURCE.—Following the Bolivian presidential message of 1863 the congress of that nation gave the executive discretionary power to declare war against Chile. Peru and the United States offered their good offices to help settle the question and were refused by Chile on the ground that the question was "entirely exceptional." President Pérez had the following report on the situation in his next message to congress. This part of the message is taken from *British and Foreign State Papers*, Vol. LV, p. 878.

Unfortunately the relations between the Governments of Chile and Bolivia are not so cordial as might be desired.

Towards the end of February, the Minister Plenipotentiary accredited from the President of Bolivia to Santiago declared that diplomatic negotiations were closed, and in consequence thereof demanded his passports, which were forthwith sent to him.

Before entering on the discussion of limits the Government of Chile considered that it was right to require proper satisfaction for the insults which it has received from Bolivia.

The Bolivian Minister stated that he was ready to accede to that requirement, but under the absolute condition that the extraction of guano from Mejillones should be suspended, or at least that the produce should be placed in deposit whilst the question was pending.

These are the motives which induced the Bolivian Minister to break off the negotiations.

As, in consequence of the threats of war and other offenses, the national honour forbade the discussion of the affair without previous satisfaction, the Government of Chile was obliged to decline the good offices which Peru and the United States of North America had offered to bring about a solution of this wearisome question of limits.

No. 19. LETTER OF MARIANO D. MUNOZ, EX-SECRETARY OF STATE OF BOLIVIA, ON THE TREATY OF 1866

INTRODUCTION AND SOURCE.—The crisis of 1863 in which the Bolivian Congress gave its president discretionary power to declare war on Chile was averted by a greater danger, the possibility of a Spanish reconquest of South America. The occasion was a break between Spain and Peru over some damage claims. A Spanish fleet occupied the Chincha Islands—then exporting

\$20,000,000 worth of guano annually and compelled the president of Peru to make what his people called an ignominious settlement. They overthrew him, declared war on Spain and called on Chile, Bolivia, and Ecuador to join an alliance called the "American Union" to fight Spain. In the mutual danger good relations were restored between Chile and Bolivia and in the subsequent fraternizing over the victory of the American Union those two countries made the Treaty of Limits of 1866, usually called the Treaty of Mutual Benefits.

The circumstances of the making of this treaty which proved to be an "entangling alliance" for Bolivia have been called in question. Mariano Melgarejo, then President of Bolivia, was perhaps the worst of Bolivia's barracks presidents of this period. Although he was a semi-ignorant, vain, base man, and a slayer of a former rival candidate,¹⁷ he was given high honors by Chile, made an officer in the Chilean army, and given the degree of *vocal honoris causi* by the university at Santiago. To this flattery most Bolivian and other writers attribute the treaty. The following document would indicate however, that the treaty was largely the work of Muñoz, but of course it had to meet the approval of President Melgarejo. This document also shows the rise of that diplomatic policy known as the "Tacna-Arica-for-Bolivia doctrine." Chile tried to show Bolivia that Tacna-Arica was the natural outlet for Bolivia and that she should seek it in recompense for the loss of the part of the Desert of Atacama which Chile wanted for its guano shipping and silver mines. A copy of this letter of Muñoz is found in V. M. Maurtua, *The Question of the Pacific*, pp. 20-21.

* * * * *

About the month of March, 1866, Señor Aniceto Vergara Albano was received as Envoy Extraordinary and Minister Plenipotentiary of Chile, in Bolivia, with the object of negotiating and carrying out the proffered alliance (against Spain), and to renew the conferences still pending on the boundary question between both nations.

The first object having been fulfilled, we next undertook to reopen the conferences, Señor Vergara Albano as Chilean Plenipotentiary, and I as General Secretary of State and Minister of Foreign Affairs.

After every argument had been exhausted, I formulated the basis, which, in the opinion of the Bolivian Government, might conciliate the interests of both republics, adopting as a basis the partitioning of the disputed territory, actuated by a sentiment of confraternity, and as a friendly and equitable compromise.

It was in the course of these conferences that I heard the Chilean Plenipotentiary make the propositions to which you refer in the letter to which I now answer, and to the effect that "Bolivia should

¹⁷, *History of the Latin-American Nations*, p. 322.

agree to renounce all her rights to the disputed zone, from 25° south latitude to the River Loa, or at least to and including Mejillones, with the precise promise that Chile would aid Bolivia, in the most efficacious manner, to acquire by armed occupation the Peruvian littoral as far as the Morro de Sama, as compensation for the cession of the Bolivian littoral to Chile; the reason adduced being that the only natural outlet of Bolivia to the Pacific was through the port of Arica."

This proposition was repeatedly made by Señor Vergara Albano, I may say, from the first to the last conference which we held, and he did not fail to reiterate it to President Melgarejo, whose warlike spirit and tendencies he tried to flatter, insinuating the idea of his carrying out a glorious campaign which his predecessors had not been able to undertake. With tenacious perseverance Señor Vergara Albano was seconded in his efforts by his secretary, Señor Carlos Walker Martínez, who had gained the intimate sympathy of Melgarejo, and from whom he obtained the brevet of major in the Bolivian army, offering himself as his aid-de-camp in the future campaign against Peru, to which they were both urging him. In the files of the army register of that date the entry of this commission is undoubtedly to be found.

The loyal and firm refusal with which both Melgarejo and myself met these insinuations did not suffice to make the Chilean Government desist from its absorbent tendencies and from its aims of usurpation; because, when I was at Santiago on a special mission, a few days before the final termination of the boundary treaty, which was signed at that city on the 10th of August, 1866, between the Plenipotentiaries, Alvaro Covarrubias on the part of Chile, and J. M. Muñoz Cavrera on the part of Bolivia, Señor Covarrubias strenuously insisted upon the demarcation and exchange of littorals which Señor Vergara Albano had proposed to me; and it was not solely Covarrubias, the Minister of Foreign Affairs of Chile, who insinuated the same idea to Muñoz Cabrera and myself, but also many other notable persons of that city, who, although using other arguments, strove to persuade us that Chile was advocating in favor of Bolivia, and that she only had in view the equilibrium of the nations of the Pacific, and the desire of rectifying the boundaries of the three countries in the most natural manner.

Vergara Albano, Covarrubias and Walker Martínez, and many

others to whom I refer, are still living; let them give me the lie if they refuse to lend their homage to the truth of this statement.

* * * * *

No. 20. THE TREATY OF 1866 BETWEEN BOLIVIA AND CHILE
(MUTUAL BENEFITS TREATY)

INTRODUCTION AND SOURCE.—This is the text of the first treaty between the two countries dealing with limits. There had been a treaty of commerce, but nothing had been said about boundaries. The treaty is translated from Prescott, *El Problema Continental*, pp. 253-264.

* * * * *

Article 1. The line of demarcation of the boundaries between Bolivia and Chile in the desert of Atacama, shall, hereafter, be parallel 24° south latitude from the littoral of the Pacific to the eastern limits of Chile, so that Chile on the south and Bolivia on the north will have possession and dominion of the territories extending from the mentioned parallel 24°, exercising in them all acts of jurisdiction and sovereignty corresponding to owners of the land.

The exact survey of the line of demarcation between the two countries shall be undertaken by a commission of properly qualified experts, half of whose members shall be appointed by each one of the high contracting parties.

Once the dividing line is determined it shall be marked by visible and permanent landmarks, the expense of which shall be borne equally by the governments of Bolivia and Chile.

Article 2. Notwithstanding the territorial division specified in the foregoing article, the republics of Bolivia and Chile shall share equally the proceeds of the exploitation of the guano deposits discovered in Mejillones, and in all such further deposits of this same fertilizer which may be discovered in the territory comprised between 23° and 25° south latitude, as well as the export duties which shall be collected upon the minerals mined within the same territorial extension herein previously specified.

Article 3. The republic of Bolivia undertakes to establish a customs house and open up the port at Mejillones, with the number of officers which the development and commerce may require. This customs house shall be the only revenue office which shall be empowered to receive the proceeds of the guano and the export duties on metals to which the preceding article refers.

The Government of Chile may appoint one or more revenue officers, duly authorized to exercise the right of supervision and inspection of the receipts of the referred-to customs of Mejillones, and to receive directly from the same office quarterly, or in such manner as may be mutually decided upon by both States, the portion of the profit due to Chile to which Article 2 refers.

* * * * *

Article 4. Exemption from all export duties is granted on the products of the territories comprised between 24° and 25° south latitude, which may be exported through the port of Mejillones. The natural products of Chile introduced through the port of Mejillones shall likewise be exempt from all import duties.

Article 5. The method of exportation or sale of guano, and the export duties assessed upon minerals, to which Article 2 of the treaty refers, shall be mutually agreed upon by the high contracting parties, either by means of special agreements or according as both may consider more convenient or appropriate.

Article 6. The contracting republics bind themselves not to transfer their rights to the possession or dominion of the territory which is divided between them by the present treaty, in favor of any other State, association or private individual. In case either of them may wish to effect such a transfer, the purchaser may only be the other contracting party.

Article 7. With respect to the losses which the question of limits between Chile and Bolivia has caused, as is well-known, to those individuals who together were the first to exploit effectually the guano deposits of Mejillones and whose work was suspended by order of the authorities of Chile the 17th of February, 1863, the high contracting parties agree to pay equally to said individuals an indemnity of eighty thousand pesos, paid from the per cent of the revenue of the customs house at Mejillones.

[There follows another article and an additional act dealing with ratifications.]

Signed: Juan R. Muñoz Cabrera—(L. S.)
Alvaro Cavarrubias—(L. S.)

* * * * *

NO. 21. REPORT OF L. MARKBREIT, U. S. MINISTER
TO BOLIVIA

January 31, 1872

INTRODUCTION AND SOURCE.—In the same year that Chile and Bo-

livia made the Treaty of Mutual Benefits a discovery was made that soon led to more trouble. A Chilean prospector, Francisco Puelma, discovered deposits of nitrates at Carmen Solar near the 24th parallel and about twenty miles inland. Nitrate products from deposits of *caliche* were soon destined to surpass in quantity the declining guano beds for fertilizer.

This fact had been demonstrated in Peru. There, during the years from 1850 to 1870, guano, which was owned and sold by the government, had enabled it to subsidize every citizen of any standing in the country and thereby to put the nation on a false economic basis which caused rash loans and stimulated strife over office. The income was diverted to the building of great railroads and public works largely through the influence of a remarkable citizen of the United States, Henry Meiggs. While the extravagant program of building and the threatened exhaustion of guano deposits were undermining national finances large private interests were developing nitrate production from the *caliche* deposits in Tarapacá.

Similarly a company was formed to work the nitrate deposits in the Bolivian desert discovered by Puelma and others. The British firm of Gibbs & Co. secured through a dummy company, Melbourne, Clark & Co. an extensive concession from President Melgarejo of Bolivia. This provided for free duties for fifteen years, the right to construct a road to the coast where the city of Antofagasta was built, and a league of land on either side of the road—all for ten thousand pesos. The people of Bolivia thought the contract leonine, but the company had to invest a great sum of money before it could make profits. At the end of twenty years the property of the company was to revert to the government of Bolivia. By several steps the extensive land concessions were lessened to some fifteen or twenty square leagues near Carmen and Salinas and several lesser concerns which had secured concessions all pooled interests in a huge company with British concerns as the nucleus. Stock was sold and among the stockholders figure the names of the leading men of the Chilean government for a generation, Errázuriz, Pinto, Sotomayor, Mackenna, Besa, and Urmenete. The headquarters of the company were established in Valparaiso and the port of Antofagasta became virtually a company city.

The British and foreign stockholders had feared that after having invested so much to construct a railroad and to install a distilling plant for water and rock crushing machinery they would not reap enough returns on the investment before the time of reversion of the property to Bolivia. For that reason their interests were pooled into a semi-official Chilean organization, but with a British manager.

Bolivia had in the littoral a meager garrison and little local government. Melgarejo had even asked Chile in 1866 to garrison Antofagasta, evidently not trusting his own soldiers. Chile was perfectly willing to do so, but local Bolivian officials in the littoral prevented the coming of the Chilean garrison. The scene certainly was set for peaceful penetration if not forcible annexation.

After 1872 the Antofagasta Nitrate and Railroad Company exerted an undue influence on the government of Chile. Mr. Markbreit's report dated January 31, 1872, puts the amount of capital too high, but it predicts correctly the clash soon to follow. The following report is from *Messages and Documents Department of State* for 1872-73, p. 64.

. . . Since the conclusion of this treaty [Treaty of 1866] it has been found that guano-deposits at Mejillones are of considerable value, and about two years ago the wonderfully rich silver mines of Caracoles were discovered by a Chilean, Diaz Gana. I am greatly feared by the Bolivian government that Chili may attempt to possess herself of these mines, as well as of the guano-deposits at Mejillones, availing herself of the first opportunity, with the purpose which may offer. It is claimed that Chili is greedily seeking for some excuses however trivial, to take this course. Mejillones is situated between the twenty-third and twenty-fourth degrees of latitude. . . I have had several unofficial conversations with the President and minister of foreign affairs upon this subject, and have found that their only hope seems to be, should such an emergency arise, to secure the intervention of the United States. On this course I have been careful not to commit in the slightest either our government nor myself.

The guano-deposits at Mejillones are variously estimated between four and ten million tons, while the mines of Caracoles are situated about one hundred and twenty miles from the bay of Mejillones and are said to contain immense riches. The capital invested in the latter place, chiefly by Chileans, amounts at the present time to about \$14,000,000. The population consists of about five thousand souls; while two years ago all that region did not contain a single inhabitant. A commission is now in session in this city [Lima] which has before it twenty-eight propositions made to the Bolivian government for the construction of a railway from the coast to the mines. Most of the propositions ask no guarantee from the government, but seek simply to obtain the right to construct the road.

This morning a battalion of infantry left this city for Caracoles with the avowed purpose of maintaining order among the natives, but the real object evidently is to be, at least in some measure, prepared to meet any hostile movement on the part of Chili.

Whether the alarm felt by the Bolivian people relative to the attitude of that republic is well-founded or not, the near future will show.

I am, etc.,

L. Markbreit

No. 22. THE PROTOCOL OF 1872

OR

THE LINDSAY-CORRAL AGREEMENT

INTRODUCTION AND SOURCE.—The year 1772 was a momentous one in the question of the South Pacific. The dual administration of the guano zone was causing friction. The party that overthrew Melgarejo made Agustín Morales president of Bolivia and tried to undo many of the former's acts. Some of his contracts were disapproved and an envoy, Rafael Bustillo, was sent to Chile to revise the treaty of 1866. There now occurred an incident known as the Muñoz-Quevado incident which raised the nitrate question to international attention.

Two exiled officials of the Melgarejo régime, Mariano Muñoz and Quintín Quevado, who had found an asylum in Chile, planned to overthrow the Morales government in Bolivia, seize the Bolivian nitrate coast and grant nitrate concessions according to their own ideas. Stock was sold publicly in Valparaíso for the enterprise, and the Chilean port authorities failed to stop the expedition. Bustillo accused Chile of complicity in such strong terms that he was given forty-eight hours to explain and, on his failure to do so his government in La Paz was notified by Chile that he was *persona non grata*. The Muñoz-Quevado expedition of a handful of men took possession of Antofagasta without resistance, but the population did not rise to their standard. When a small Bolivian force came down from the garrison at Mejillones the remnants of the expedition took to the sea and later put in at Tocopilla. Here they were fired on by the garrison and reembarked. A mishap ensued and they were taken on board a Chilean war vessel. Bolivia demanded their surrender with their arms which later was done after the Chilean supreme court decided in favor of such action.

This incident greatly aroused Bolivia already tense from friction in the nitrate zone. It also was the occasion of Peru's taking an interest in the affair and Argentina's becoming alarmed at the expansion of Chile. Peru, who had strengthened her navy and was supposed to be predominant on the Pacific, now indulged in a naval demonstration off Mejillones and sent a note saying that she would not look with indifference upon the occupation of Bolivian territory by foreign forces.

Trouble confronted the leaders of the new administration in Bolivia. This same year, 1872, Adolfo Ballivián, who had been sent to London on a financial mission to purchase a warship wrote regarding the necessity of Bolivia's arming: "I am convinced of the urgency of this necessity by the reflection that to the end of the world right will never be anything without strength (*fuera*). In all international disputes it is always the case that, having a mine, makes it necessary to protect and work it if it is to be of any advantage. The nation to whom there is opened by chance at the edge of the sea the wide door of incalculable riches and future fortune, should either close it or guard it well against the envy and rapacity of violence. He who cares for coasts, ports, and railways, should not neglect the responsibilities which they entail."¹⁸

¹⁸ Gutierrez, Alberto, *La Guerra de 1879*, p. 53. Paris, 1914.

The treaty of 1866 led to disagreement over what constituted metals, over the administration of civil law in the zones, and over the question of whether the boundary line ran from parallel 24°, the shortest route to the Andes, or straight east to them. The following protocol was intended to clear up bothersome provisions of the treaty. The protocol is a translation from Prescott, *El Problema Continental*, pp. 266-270.

* * * * *

Article 1. It is agreed that the eastern limits of Chile, as mentioned in Article 1 of the boundary treaty of 1866, are at the highest divide of the Andes, and therefore the dividing line between Chile and Bolivia is the 24th parallel south latitude from the Pacific Ocean to the divide of the Andes mountains.

Article 2. In order to determine and mark with visible markers the extension of mines and places producing minerals that are subject to mutual benefits from customs from exports between degrees 23 and 25, each party shall name a commission which in the capacity of experts may proceed to determine and fix said places. If the commission agrees, the expert operation will be considered valid and will be respected as though a juridical act, without the necessity of the approval of the respective governments. In case of disagreement, the same expert commission shall name a third who or which shall decide; but if there cannot be an agreement upon the third, the Emperor of Brazil shall make the nomination. It is understood that the territory of common exploitation designated in Article 2 of said treaty is the polygon formed by parallel 23 on the north, 25 on the south, the Andes on the east, and the Pacific Ocean on the west.

Article 3. It is agreed that the equal sharing in export duties shall include besides metals, in the true sense of the word, such things as saltpeter and borax, sulphates and other inorganic substances which are commonly understood in the generic sense as minerals and belong to the mineral kingdom.

Article 4. In developing the guano deposits discovered or to be discovered in the zone determined in Article 2 of this protocol, the governments of Chile and Bolivia will adopt a common system of regulation in order to derive the most possible from the industry.

Article 5. The fiscal inspectors of Chile at Mejillones by the Treaty of 1866 are authorized to examine also the books and other records in the other customhouses established or to be established within the 23rd parallel and the Bolivian authorities shall not re-

fuse them access to documents and data which they request by virtue of this article.

Likewise Bolivia shall not establish within parallel 24° any other fiscal inspection than the kind employed by Chile in parallel 23°.

His Excellency the Minister of Foreign Relations of Bolivia proposed the following additional articles:

Article 6. The Chief of the customhouse of Mejillones, together with the Chief of Chilean fiscal inspection there shall proceed to balance, liquidate and settle all accounts of the customhouses established within the 23rd parallel, and upon the completion of this operation the Government of Bolivia shall give to the Government of Chile a half of the duties from the exportation of minerals which its customhouses have produced up to the date of the liquidation.

In the liquidations mentioned, the budget of the salaries of employees of the Departments of Public Works and Justice should always be deducted for those employees in the zone mentioned in Article 2.

After each quarterly liquidation the Custom House of Mejillones will give directly to the fiscal inspector of Chile the part of the joint revenues that belong to Chile.

His Excellency the Minister Plenipotentiary of Chile accepted *ad referendum* this article and proposed that if the Government of Chile did not accept it the content of that article be referred to the President of Peru for arbitration. His Excellency stated that he had no instructions from his government to make that suggestion, and that it also should be considered *ad referendum*, to which the Bolivian minister agreed.

Article 7. The two governments shall agree upon the duties of exportation of feed for animals (pastos) and minerals of all kinds that may be exported from the zone determined in Article 2; and neither party shall alter or modify the tariffs without the consent and agreement of the other.

Article 8. Respecting the products of guano, metal, and minerals of all kinds which may be exploited in the territory situated north of parallel 23°, and which may be exported through customhouses established within said degree, the Bolivian government will keep separate accounts of duties collected in its territory without the intervention of the Chilean fiscal inspector at Mejillones.

Chile will have equal rights with respect to products produced

south of parallel 25° that may be exported through customhouses established north of that parallel.

Article 9. The two governments agree to continue negotiating pacifically and amiably with the object of revising or abrogating the treaty of the 10th of August of 1866, substituting for it another that might be mutually better for the interests of the two sister republics, with the purpose of removing all causes for questions that might arise in the future, and on the permanent basis of the 24th parallel and the divide of the Andes.

Therefore the present protocol being finished it is signed in duplicate and sealed with the respective seals, etc.

Signed: Santiago Lindsay
 Casimiro Corral

NO. 23. TREATY OF DEFENSIVE ALLIANCE OR "SECRET TREATY" BETWEEN PERU AND BOLIVIA, 1873

INTRODUCTION AND SOURCE.—The same year (1872) that Bolivia's agent in London, Adolfo Ballivián, was vainly endeavoring to secure a warship, Chile was having constructed in British shipyards two armored warships of the best type then known. This appeared strange to some observers in view of the relative poverty of that country whose finances were then in bad shape. Chilean officers supervising the construction spoke in unfriendly terms of Peru and comments in the European press hinted at a Chile-Bolivia coalition against Peru in which Chile would receive Bolivia's littoral near Mejillones and Bolivia would get Arica.

While Ballivián was trying to get armaments the Bolivian assembly was seeking diplomatic aid against the expansion of Chile. Following the Muñoz-Quevado incident the assembly was interpellated on the Chilean question and in secret debates that body authorized the executive to seek a treaty of defensive alliance with Peru and if successful to ratify it without further approval of the congress. This move was doubtlessly suggested by the Peruvian naval demonstration off Mejillones because the two nations traditionally had not been friendly. When the matter was presented to Peru through the Bolivian resident minister Juan Benavente it was favorably received by the Peruvian president, Manuel Pardo, and the cabinet on November 17, 1872, and by February 6, 1873, the treaty was signed.

These events were taking place while the Lindsay-Corral protocol was being prepared, it being signed in December 1872 and approved by Chile in January 1873. Riva Agüero, the Peruvian minister in Bolivia, urged Bolivia not to approve the protocol which in no way settled the dual sovereignty question and to demand an immediate revision of the Treaty of 1866. The "secret treaty" contained a species of compulsory arbitration clause, and Riva Agüero, Peruvian Minister of Foreign Affairs, evidently hoped to break up the dual arrangement in Atacama before Chile's two new ships should be completed. He believed that then it would be too late for the allies to force

an arbitration upon Chile. Ballivián returned from Europe in March and became the president of Bolivia where he lent his influence to bring about a revision of the Treaty of 1866. The efforts of these two men would have been ever greater had they known that during 1873 President Errázuriz of Chile was cabling to England for speed in finishing the two warships. The Bolivian assembly refused to ratify the Lindsay-Corral protocol. A new minister from Chile, Walker Martínez, sought to make another one, always keeping the detested mutual benefits arrangement, and was not aware of the Bolivia-Peru alliance. This treaty of 1873 is not novel, Bolivia and Ecuador having had a very similar one in 1842, but the fact that it was secret was used extensively for war propaganda in 1879.¹⁹ In 1864 the Chilean minister to Ecuador had tried to secure a treaty of alliance against Peru which was not completed owing to the success in forming the American Union.²⁰ The text of the "Secret Treaty of 1873" is translated from texts in Prescott, *El Problema Continental*, pp. 271-275, and Búlness, *La Guerra Del Pacífico*, Vol. I, pp. 65-68.

Article 1. The high contracting parties unite and join mutually to guarantee their independence, sovereignty, and the integrity of their respective territory, binding themselves by the terms of the present treaty to defend themselves against all foreign aggressions, whether proceeding from another or other independent state, or from a force without a flag, owing obedience to no recognized power.

Article 2. The alliance will become effective to protect the rights expressed in the preceding article and particularly in cases of offense consisting:

1st. In acts tending to deprive either of the contracting parties of a portion of their territory, in order to assume dominion over it; or to yield it to another power.

2nd. In acts tending to oblige either of the contracting parties to submit to a protectorate, sale or cession of territory, or to establish over it any superiority, right, or pre-eminence whatsoever, which may injure or offend the full and ample exercise of its sovereignty and independence.

3d. In acts tending to do away with or change the form of government, the political constitution or the laws that the contracting parties have made, or may in future make, in the exercise of the sovereignty.

Article 3. As both the contracting parties recognize that every legitimate act of alliance is based upon justice, for each of them

¹⁹ *British and Foreign State Papers*, Vol. 31, 1842-43, p. 1046. Text of Bolivia-Ecuador treaty of alliance.

²⁰ This was the union of South American republics formed to fight Spain in 1866. See *supra* introduction to Doc. 19.

respectively, the right is established of deciding whether the offense inferred to the other is comprised amongst those mentioned in the preceding article.

Article 4. The *casus foederis* once declared, the contracting parties bind themselves to cease immediately their relations with the offending state; to hand their passports to its diplomatic ministers; to cancel the appointments of the consular agents; to forbid the importation of its natural and industrial products; and to close their ports against its ships.

Article 5. The same parties shall also appoint plenipotentiaries to adjust by protocol the arrangements necessary to determine upon the subsidies, the contingents of either sea or land forces, or the aid of whatever kind that must be lent to the offended republic, and whatever else may be convenient for the success of the defense. The meeting of the plenipotentiaries will be held in the place assigned by the offended party for that purpose.

Article 6. The contracting parties bind themselves to provide the one offended with the means of defense which each may consider it can furnish, though the arrangements pointed out in the preceding article may not have taken place, provided that they consider the case urgent.

Article 7. The *casus foederis* once declares, the offended party will not be able to make arrangements for peace, truce or armistice without the concurrence of the ally who may have taken part in the war.

Article 8. The contracting parties bind themselves in addition:

1st. To employ with preference, whenever it is possible, every conciliatory measure in order to avoid a rupture or to put an end to the war, holding as the most effective the arbitration of a third power.

2nd. Not to admit nor accept from any nation or government protectorate or superiority that may injure and lessen their independence or sovereignty, and not to yield up nor transfer in favor of any nation or government any part whatsoever of their territories, excepting in the cases of better demarcation of limits.

3rd. Not to celebrate treaties of limits, or of other territorial arrangements, without the other contracting party first knowing of the same.

Article 9. The stipulations of the present treaty do not extend to acts performed by political parties or the result of internal dis-

turbance independent of the intervention of foreign governments; inasmuch as the principal object of the present alliance being the mutual guarantee of the sovereign rights of both nations, none of its clauses must be interpreted in opposition to its primary end.

Article 10. The contracting parties will, separately or collectively, when by subsequent agreement they may consider it convenient, solicit the adhesion of another or other American states to the present treaty of defensive alliance.

Article 11. The present treaty will be exchanged in Lima or in La Paz, as soon as it is legally perfected, and will be in full force from the twentieth day after said exchange takes place. Its duration shall be for an indefinite period, each party reserving to itself the right of terminating it when such shall be thought convenient.

In such a case the party desiring to annul the treaty must notify the other party of same, and the treaty will no longer have effect on the expiration of forty months from such notification.

In testimony whereof the respective plenipotentiaries signed it in duplicate and sealed it with their private seals.

Done in Lima on the sixth day of the month of February, one thousand eight hundred and seventy-three.

Juan de La Cruz Benavente

J. de La Riva-Agüero

Additional Article. The present treaty of defensive alliance between Bolivia and Peru shall be kept secret so long as the high contracting parties shall mutually agree that its publication is unnecessary.

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NO. 24. NOTE OF PERUVIAN MINISTER, RIVA AGÜERO, REGARDING A TRIPLE ALLIANCE

May 20, 1873

INTRODUCTION AND SOURCE.—In 1872, that climactic year in the Tacna-Arica question, Chile sent a commissioner to Buenos Ayres with a note asserting her claim to the disputed Patagonia region as far as the Río Santa Cruz. Argentina was facing a possible conflict with Brazil and the Peruvian Chancellor Riva Agüero took occasion to resort to that European diplomacy known as the balance of power. He purposed to get Argentina to join Bolivia and Peru in a triple defensive alliance. On May 30, 1873, he wrote to Manuel Irigoyen, the Peruvian minister in Buenos Ayres, the following instructions. From Irigoyen, Manuel, *La Adhesión de la República Argentina al Tratado de Alianza Defensiva Peru-Boliviano de 1873*, pp. 7-9, and quoted

in *Appendix to the Case of Peru*, pp. 25 and 26, with an English version on pp. 15 and 16.

You are doubtless aware that for some time back grave questions have arisen between Chile, on the one hand, and the Argentine Confederacy and Bolivia on the other, relative to the delimitation of boundaries between the former and latter republics.

Bolivia, which, unaided, would not have the necessary strength to resist the pressure which Chile might bring to bear upon her, and alive to the convenience of strengthening the bonds which bind her to us, solicited through the intermediary of her Plenipotentiary, and in agreement with a legislative resolution, copy of which I enclose, the moral and effective support which were necessary to enable her to discuss and uphold her rights, dispassionately and in complete security. The government of Peru could not remain indifferent to the legitimate appeal of her neighbor and signed with her the Defensive Treaty of Alliance, copy of which is enclosed, and which, already approved by the National Congress, will very shortly be submitted to the Bolivian Assembly and exchanged by both governments.

An examination of this agreement will bring the conviction that it has been prudently drawn up so as to prevent any cause for disagreement thus avoiding every excuse for war. Arbitration is therein stipulated as the sole just and reasonable means which must be adopted for deciding boundary disputes.

As it has been agreed, according to Article 9 of the treaty, to solicit the adherence of other governments, you will endeavor to secure that of the Argentine Republic, which, at this present time, would not seem difficult in view of the difficulties which have been encountered until now and which have stood in the way of and prevented a decision on her boundary line with Chile.

It is as much to the interest of the Argentine Republic as to Bolivia's, and indeed to that of all American countries whose boundaries have not yet been defined, to become members of the Defensive Alliance; especially at this moment when the Patagonia boundary question threatens to enter upon an aggressive phase, which we must all endeavor to prevent, confining it to that of discussion and of arbitration.

This is, therefore, the principal purpose of your mission, and to which you will devote your best endeavor. With the strengthening of the Alliance, by the entry of other republics, wars for terri-

torial expansion will become impossible in America, because the exaggerated ambitions of any one of these Republics would have to be restrained when confronted by the firm and unyielding attitude of the Allies.

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J. de la Riva-Agüero

NO. 25. THE TREATY OF SUCRE, OR THE MARTINEZ-BAPTISTA AGREEMENT

1874-75

INTRODUCTION AND SOURCE.—The proposal of Riva Agüero for a triple alliance was at first well received in Argentina. President Facundo Sarmiento recommended it to his congress which passed it except for a financial provision to make it effective. Then it was delayed by the ministry in a long correspondence over details of *casus foederis*, application to Brazilian frontiers, and similar matters. In the meantime Riva Agüero was urging Bolivia to break definitely the entangling mutual benefits arrangement and the Chilean Minister, Walker Martínez, was insisting on a new agreement, a *modus vivendi* for the nitrate interests as it were, embodying the joint administration of the littoral. Riva Agüero said in his instructions to his envoy in La Paz that he wished only that an unambiguous definite settlement be reached before the two new warships of Chile should be finished.

By January 1874 Chile had learned of the "secret treaty" and then played a cautious hand. President Errázuriz cabled for night shifts and shortened the time in which one of the ships of war was to be delivered.²¹ Walker Martínez and the Chilean minister in Buenos Ayres were advised by the Chilean chancellor Adolfo Ibáñez to take no important steps for the time being. Gonzalo Búlness, the eminent Chilean historian, says that one must read between the lines of the instructions of Ibáñez and see that the time referred to was the time necessary for the new warships to leave England. The situation was finely balanced. After the death of President Ballivián the government of Bolivia was presided over by the old Bolivian statesman Thomas Frías who wished to settle the question pacifically, and so he rather favored the Carlos Walker Martínez proposals. Soon after this, news from Europe changed the whole diplomatic board.

One of the new ships named the *Cochrane*, after the famous British-Chilean admiral, had put to sea with her interior finishing incomplete, but armed. Riva Agüero now instructed his minister in La Paz to advise Bolivia to accept the Carlos Walter Martínez proposals. He said that Chile was now ready to impose whatever conditions she wished on Bolivia regarding the littoral, and to refuse to accept the treaty would result in new complications since, "the Chilean navy is now reinforced by a new vessel which has just come off the ways in England and at this date is sailing toward the Pacific." The proposals were embodied in the Martínez-Baptista Agreement, or Treaty of

²¹ Búlness, Gonzalo, *Guerra del Pacífico*, Vol. I, p. 86.

Sucre which was so hastily drawn that Article 7 threatened the validity of the original treaty of 1866. Therefore a supplementary treaty was drawn up early in 1875 and ratified in July as an integral part of the treaty of 1874. They are translated from Prescott, *El Problema Continental*, pp. 276-280.

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Article 1. The 24th parallel from the sea to the continental divide of the Andes is the boundary line between the republics of Bolivia and Chile.

Article 2. For the purpose of this treaty, the lines of parallels 23 and 24 as established by the commissioners Pissis and Mujia are considered valid, as per the act of the 10th of February 1870.

If questions should arise concerning the exact situation of the mineral deposits of Caracoles or any other deposits that might be considered outside the zone between the two said parallels, the exact situation will be determined by a commission of experts, one named by each of the contracting parties, the two to name a third in case of disagreement, and if they do not agree, the nomination shall be made by the Emperor of Brazil. Until there is proof to the contrary regarding this situation, these mineral deposits will continue to be considered within the parallels indicated.

Article 3. The deposits of guano existing, or that shall be discovered in the future, within the perimeter described in the preceding article will be divided equally between Bolivia and Chile; the system of exploitation, administration and sale shall be continued by the two governments by common accord in the form and manner heretofore employed.

Article 4. The duties of exportation that may be levied on minerals exploited in the zone referred to in the preceding articles shall not exceed those now in force; and Chilean citizens, industry, and capital shall not be subjected to any other contributions whatever except those now existing.

The stipulations of this article shall last for twenty-five years.

Article 5. The natural products of Chile that may be imported into the Bolivian littoral between parallels 23 and 24 shall be free and exempt from all duties, and reciprocally, natural products of Bolivia that may be imported into the Chilean littoral between parallels 24 and 25 shall be exempt and free from all duties.

Article 6. The Republic of Bolivia shall make of Mejillones and Antofagasta major ports of its littoral.

Article 7. From this date the Treaty of 1866 in all its parts is annulled.

Article 8. The present treaty shall be ratified by each of the contracting republics, and ratifications exchanged in the city of Sucre within three months.

In faith of which, etc. the undersigned plenipotentiaries of the republics of Chile and Bolivia have signed the present protocol and put their respective seals, in Sucre on the 6th day of August 1874.

Signed Mariano Baptista
Carlos Walker Martínez

Supplementary Boundary Treaty of 1875

Between

Bolivia and Chile

Article 1. It is declared that the meaning that should be given to the mutual exploitation of guano discovered or to be discovered, dealt with in Article 3 of the Treaty of August 6, 1874 [Martínez-Baptista] is that it refers to the territory included between parallels 23 to 25 south latitude.

Article 2. All questions that may arise in the understanding and execution of the Treaty of August 6, 1874, should be submitted to arbitration.

Article 3. The present treaty shall be ratified in the briefest possible time and ratifications exchanged in some city of Bolivia.

In faith of which the undersigned plenipotentiaries of the republics of Bolivia and Chile have signed the present protocol and placed their respective seals in La Paz, July 21, 1875.

Signed Mariano Baptista
C. Walker Martínez

No. 26. BOLIVIAN WAR PROCLAMATION

February 27, 1879

INTRODUCTION AND SOURCE.—No formal statement of the causes of the War of the Pacific can be given here, but the most important events leading to war, from 1875 to 1879, will be traced. Argentina remained out of the Bolivia-Peru alliance in 1875 but still had the Patagonia question pending. The great Antofagasta Nitrate and Railroad Company, employing practically all Chilean labor and owned by Englishmen and Chileans, formed a natural channel for Chilean expansion into the Bolivian littoral, then not appreciated or properly policed by that nation.²² Annexationist societies

²² Barros Arana, Diego, *Histoire de la Guerre du Pacifique*, Vol. I, p. 14. Paris, 1881.

called "carbineros" were formed there by Chileans and all conditions existed for the formal taking of the region when the occasion should arise.

The war growing out of high nitrate finance came, although it is probable that few people in either country involved saw the hands that were moving these nations like small pawns for a sacrifice play for big stakes of nitrates. Both Chile and Peru were racing towards national bankruptcy. By the time war began each had a large annual deficit and neither was paying interest on the debt. The United States minister in Chile predicted there would be no war between Chile and Argentina in 1878 over Patagonia "because neither country had the funds."

Peru had been going through an orgy of extravagance with money from guano sales; this great wealth was owned by the government. By 1875 there were signs of a failing supply of this commodity and returns from it were diminished by the competition of nitrate of soda works then developing in Tarapacá on an even larger scale than in the Antofagasta region. At the instance of bankers who had seen the government returns from the guano monopoly, on December 14, 1875, the government of Peru decreed a monopoly of the immense Tarapacá nitrate mines. Capitalists then formed the Peruvian Nitrate Corporation for the purpose of monopolizing the nitrate business, with the government as a silent partner.²³ In anticipation of this operators exported 322,745 tons of guano that year which reduced the price to such a low mark that a special session of congress was called in June the following year.²⁴ After bitter debate the measure passed and the banks took possession limiting the output to 2,000,000 quintals or about 20,000 tons.

At first thirty-six operating companies conformed while fourteen, representing mostly foreign operators, refused. After attempting to pro-rate the output to these same companies allowing the corporation to act merely as a sales company, the government decreed the forced sale of all the mines, to be paid for with government certificates. The corporation was to receive 5 per cent for commission, pay 60 per cent of proceeds to certificate holders and 40 per cent to the Peruvian government. The dispossessed owners formed local organizations of certificate holders in Chile, England, France, Germany and other countries, all bent on getting back their mines for they did not believe that, with the competition in Bolivia of the Antofagasta and other companies, the Peruvian Corporation would ever pay them all, even though satisfactory price terms could be agreed upon. These certificate holders were not a unit as to what they should do, but there were powerful groups determined to have Tarapacá taken out of the Peruvian monopoly.

Naturally the Antofagasta Company preferred Chilean sovereignty. British certificate and guano loan holders came to the United States to buy warships for Chile before war was expected officially; Chilean statesmen later learned how certificate holders had aided diplomatically in Europe by preventing Peru from buying warships and munitions.²⁵ The occasion for war soon arose. Article IV of the Martínez-Baptista Treaty provided that for twenty-five years no duties were to be levied in addition to those existing. In 1878

²³ Flint, Chas. R., *Memories of an Active Life*, p. 66.

²⁴ Reginald, Enoch G., *Peru*, p. 74, London, 1910.

²⁵ See Doc. 49, *infra*.

the city council of Antofagasta, which consisted of five nationalities, none of which was Bolivian, asked the Bolivian federal government to permit a tax of ten centavos on the property of the Antofagasta Nitrate and Railroad Company to help defray the expenses of light, police, and other municipal matters.²⁶ Bolivia then authorized a tax of ten centavos a quintal on all nitrates exported instead of the various kinds of taxes being paid. The amount to be paid under the new provision was not materially greater if any than under the old systems and the aggregate amounted to but about 90,000 pesos a year. Later when the property was taken by Chilean armies a duty of 0.75 a quintal was laid. However Chilean writers maintain that it was the principle of new taxation that the company was resisting just as it was in the case of the New England colonies and the tea tax.

The measure was passed in February. The Chilean minister in La Paz, Pedro Videla, objected and the Bolivian ministry agreed to defer the matter until a satisfactory agreement could be made. On July 2 Videla asked to have the matter put in writing. The assembly was considering the revision of other features of the contract with the company and naturally capital desired stable conditions. Videla's note of July 2 remained unanswered for three months and the situation did not seem to be alarming. However on November 8 Chile sent a note which was a virtual threat to abrogate the Treaty of 1866 and to reclaim the desert to parallel 23° if the law went into effect. Hilaron Daza was now president of Bolivia. He had his ministers reply that the company had recourse to the Bolivian courts and that it was not a diplomatic case. Here he made a grave blunder. Chile had again adjusted her quarrel with Argentina, recalled her fleet from the south, and now asserted that if the tax were collected she would "revindicate" the coast to parallel 23°. Daza stubbornly promulgated the law with orders to collect back taxes to February 14, 1878. He was sorely vexed with foreign concessioners and especially with the English.

On January 6 the Bolivian prefect of Antofagasta, Colonel Zarata, ordered the payment of the tax and the imprisonment of the English manager, Mr. George Hicks. The government of Bolivia started a note to Chile on December 27 offering to arbitrate the question on the basis of the tax being paid meanwhile. On January 3 Chile addressed a note to Bolivia offering to arbitrate on the basis of the tax not being collected meanwhile. In this crisis one of President Daza's ministers recalled the existence of a defensive treaty with Peru. Coincidentally a prominent Chilean capitalist and former consul to Bolivia, Lorenzo Claro, suggested to Daza that he remove the cause of trouble by cancelling the concession of the Antofagasta company. Strangely enough on the advice of his ministry Daza decided to cancel.²⁷

On February 1 President Daza started his cancellation order to Antofagasta and a letter telling the prefect about his discovery of the treaty of alliance with Peru. The letter was intercepted by Chilean army officers and sent to the president of Chile with the statement that it might be valuable to prove Peruvian complicity. February 8 Videla learned of the cancellation order; he gave Bolivia an ultimatum of forty-eight hours to withdraw it and

²⁶ Shanks, J. Perkin, "The Chile-Peru Dispute," *The Forum*, May, 1923.

²⁷ Gutierrez, Alberto, *La Guerra de 1879*, pp. 109-110. Paris, 1914.

declared that otherwise Chile would revindicate the coast to parallel 23°. The same day, but two weeks away in point of time, the Chilean Minister of the Interior who had not had time to know of the cancellation order wrote to the President and the Minister of Foreign Affairs that Chile should occupy Antofagasta and prevent the collection of the tax, and that an envoy should be sent to Ecuador to work for an alliance in case Peru should aid Bolivia.

News of the cancellation order reached Santiago February 11 and orders were sent to Videla to retire which he had already done announcing Chile's purpose to "revindicate" the coast to parallel 23°. On February 14 the Chilean fleet which had been previously assembled at Caldera, then the end of the telegraph line from Santiago, was at anchor in Antofagasta Bay. Troops were landed and occupied the city without resistance on the part of the small Bolivian garrison while the city dressed out in Chilean flags. Chilean troops soon occupied the littoral to parallel 23° and the small Bolivian garrisons fell back to Cobija and Tocopillo. President Daza received the news February 20 during the annual carnival and, not desiring to disturb the celebration, withheld the notice and published his proclamations February 25 and 27. His proclamation in defense of Antofagasta and amnesty to political enemies were dated February 20, letters of marque were issued the 26th and the general war manifesto February 27, 1879. *Senate Executive Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 201.

Ministry of War

Hadquarters, La Paz, February 27, 1879.

The President of the Republic has considered it desirable to make known to the army the occurrences of the frontier, and has issued the following proclamation:

Soldiers: Under the shadows of peace which should be unalterable and cordially sustained by the Republics of Chile and Bolivia, because the interests of both countries so require it, and because my government has taken care to cultivate with diligence its fraternal relations, that of that nation has just perpetrated an outrage on civilization for which there is no name. On the 14th of this month two Chilean steamers of war, with eight hundred men for disembarcation, and supported by a considerable number of persons depraved by misery and vice, assassins of the curved blade, have taken possession of our defenseless ports of Antofagasta and Mejillones by surprise without previous declaration of war, without taking into consideration that civilization condemns vandalic acts more than it does those of hordes of savages, if they are committed by nations and governments which pretend to have culture. The result of an international iniquity, it is natural that the perpetration of crime was as a praiseworthy action. A Bolivian policeman, his wife and child, in Antofagasta, and four laborers in Carmen

Alto, have been assassinated with the special weapon of the Chilean bandit, the curved dagger.

Companions: So cynical a calculation of the rights of humanity imposes on all the States of the American continent a sacred duty of eminent justification and of foresight which sooner or later they will have to fulfill.

In the meantime the Bolivian army will let the world know that the honor of Bolivia and the integrity of its territory are under the safeguard of its bayonets, and that on this occasion, as on others, it will know how to chastise its cowardly aggressors.

Comrades: I expect everything from your patriotism, your serenity, and discipline. If the government which has believed it would humiliate us by the occupation of our desert shores does not honorably retract its vandalic acts, there will remain inaugurated for us a glorious epoch, because we will all fulfill with emulation the holy duty of fighting without truce or hesitation the enemies of the national autonomy, the usurpers of our territory, the conquerors of civilized towns. Let our motto be to "live or die for Bolivia."

Be ready for the precious moment in which the campaign opens, and we will march to recover the beautiful soil of Atacama, which was left us by the founders of the republic.

H. Daza

NO. 27. HANDBILL OF PROTEST AGAINST MEDIATION BY PERUVIAN ENVOY

March 4, 1879

INTRODUCTION AND SOURCE.—The "revindication" of the desert of Atacama, now being called Antofagasta, was very popular in Valparaiso and other shipping centers of Chile. Although military forces did not immediately occupy the region beyond parallel 23°, all preparations were made for doing so as soon as Chile should formally declare war against Bolivia. The remnants of the Bolivian garrisons retreated to Calama near the Andean foothills and little was feared from Bolivia in a military way. What gave concern to Chilean officials was the question of Peruvian neutrality.²⁸

President Anabel Pinto did not expect Peru to lend military aid to Bolivia. He knew of the state of near bankruptcy and confusion in Peru following the Piérola revolution and was well informed as to the state of unpreparedness of the warships of that country which were then in drydock. The Peruvian press sympathized with Bolivia and the Chilean Minister at Lima sent alarming reports to President Pinto of the anti-Chilean feeling in Peru. This

²⁸ Búlness, Gonzalo, *Guerra del Pacífico*, Vol. I, pp. 180, 181.

minister, Joaquin Godoi, was the most zealous member of the Chilean war party. He fanned the flames of war and even suggested to the President what steps should next be taken.

Peru was now called upon by the Bolivian government through its minister in Lima to comply with the alliance of 1873 and come to the defense of her ally. Wholly unprepared Peru did not want war, at least until she could prepare, and she sent a well trained diplomat, Antonio Lavalle, to Chile to offer mediation. Godoi assured Pinto that this move was to gain time, that Peru was an ally of Bolivia, and urged his government to demand a declaration of neutrality at once. The Chilean public did not know about the "secret treaty" of 1873 between Bolivia and Peru, but it was known in official circles. Lavalle's mission was therefore practically impossible. The public in Chile sensed interference in their annexation or "revindication" plans and resented it. The following handbill called a massmeeting for the day Lavalle landed in Valparaiso and the mob stoned the Peruvian consulate and tore off its insignia before it was suppressed by police. The handbill is taken from V. M. Maurtua's *The Question of the Pacific*, pp. 51-52.

To the People

Fellow-citizens:

On Tuesday next, according to trustworthy information, an emissary from Peru is to arrive; he comes, according to some, to interpose his officious mediation in our quarrel with Bolivia, and, according to others, with the intention of demanding a strict account from our Government for the "*revindicacion*" of our northern territory.

Chile on putting her foot upon the desert has said, as MacMahon did at Malakoff: *J'y suis et J'y reste*. There is no reason for the mission of the Peruvian Envoy.

This is what our country should be made to know, with undeniable force and by means of public and solemn unmistakable acts.

Diplomacy has its uses, its hypocrisies, its circumlocutions, and its reticence; but the people know nothing about it, nor do they have any use for it; the people only listen to and understand the manly and honest language of truth.

And the people of Chile wish to have it understood by the Peruvian Plenipotentiary that, no matter if he comes as an officious mediator or as an examining judge, his mission is vain and hateful; and in like manner they wish that the Government of Chile shall know that the gates of the Moneda [the Executive Mansion] are to be closed against him who should wish to enter them clothed in the very thin disguise of a fallacious diplomacy.

It is for this purpose that the inhabitants of Valparaiso are here-

by asked to meet on Tuesday next, the 4th instant, at eight o'clock in the evening, at the Plaza de la Intendencia, that they may give form and expression to these views, and so as to adopt, in the presence of the Peruvian Envoy, the dignified attitude which becomes the sons of Caupolican and Lautaro.

Therefore, get thee to the Plaza de la Intendencia, noble people of Valparaiso, March 4th, 1879.

NO. 28. BOLIVIAN WAR CIRCULAR

March 31, 1879

INTRODUCTION AND SOURCE.—On March 14 Bolivia advised representatives of foreign powers that a state of war existed with Chile. The announcement was issued from Lima. The Chilean minister in Lima, Godoi, advised President Pinto that this move was to prevent Chile from securing armaments abroad, that Peru was arming, and that she should be required to declare her neutrality at once. Meanwhile Lavalle was attempting to mediate for Peru at Santiago and seemed to be making progress toward a settlement with President Pinto. On March 21 Godoi, who had been trying to get definite information as to the provisions of the "secret treaty" had an interview with President Mariano Prado and learned the position of Peru. He telegraphed the news to his government together with instructions how it should proceed. He said: "Last night President explained me treaty of alliance with Bolivia; convoke Congress for decision, and request an explanation of Lavalle to our government. Lavalle is evasive to gain time. Warlike preparations and public excitement continue. I think I should insist on a declaration of neutrality immediately and not receiving it should ask for my passports."²⁹ Confronted with this message Lavalle, who either did not know the nature of the alliance with Bolivia or was carefully concealing it, stated that if Prado said so it must be true.

On March 24 President Pinto wrote a member of the cabinet that he believed Peru was "bluffing" and that he did not think Prado wanted war nor that many people in Peru did. He was right. Few people in Peru wanted war for the country was not united after the recent civil wars. But they were bound by a treaty between Bolivia and their government, made when both countries were under different administrations. The following day Lavalle wrote his government that Pinto had told him that Godoi was excitable and influenced by visionaries, and that allowance should be made for his temperament. However, military time tables had started and when they start all the peace ships and conferences in the world can hardly stop them.³⁰

The Chilean government instructed Godoi to demand of Peru the abrogation of the alliance and a declaration of neutrality, and if this were refused to demand his passports. On March 28 the Chilean Council of State planned

²⁹ Búlness, Gonzalo, *Guerra del Pacífico*, Vol. I, p. 152.

³⁰ See introduction to Doc. 26 for a comparison of dates of mobilization and the ultimatum issued by Chile to Bolivia.

an expedition against Callao, Peru, which was known to be unprepared, appointed a civilian, Rafael Sotomayor, as General Secretary and Assessor of the fleet—a special representative of the government—and asked Congress to declare war.

Meanwhile over the Andes at La Paz, and it may be said here parenthetically that a single telegraph line might have prevented this war, Daza issued letters of marque against Chile on March 26, and a formal war circular on March 31. Taken from *British and Foreign State Papers*, 1879-80, Vol. LXXI, pp. 926-933.

Sir: The events, incomprehensible enough and of increasing importance for the American continent, which have been taking place with marked characteristics of violence and disgrace since the 14th February last, render it necessary for me to address your Excellency to give you a brief representation of the injustice and insulting audacity with which the Chilean Government has taken possession, by force of arms, of that part of the Bolivian coast included between the 23rd and 24th degrees of south latitude; the said Government having seized the important towns of Antofagasta, Mejillones, and Caracoles, those three sources of wealth derived from their natural productions, such as saltpetre, guano, silver, copper, and many other materials.

That outrageous act, so deeply degrading to the sovereignty and independence of Bolivia, to her honour and dignity, has now been aggravated more shamefully still, if possible, by the occupation of the ports of Cobija and Tocopilla, which was affected on the 21st and 22nd instant.

The exceptional position in which Bolivia has been placed by the conduct of Chile has naturally led the former State to assume an attitude consistent with its duty to employ all fitting means to repel the armed aggression by force, and to recover the territory of which it has been deprived.

The aggression of Chile in profound peace, without a previous declaration of war, or any other preliminary, and even while the negotiations commenced in this city by Señor Videla, Chargé d'Affaires of the Chilean Government, were pending, could not but surprise by Government and take it entirely unprepared. The presence of the iron-clad *Blanco Encalada* in the waters of Antofagasta was denounced from the beginning by public opinion, and even by the press of Valparaiso itself, as indicative of the events which have taken place since; but my Government, relying on the wariness and honesty of the Chilean Government, would not credit

such offensive and incomprehensible rumours, and did no more than inquire of the Chilean Representative about them. His answer, contained in a despatch of the 27th January last, was satisfactory, and my Government could not suspect that it was a concoction for the purpose of lulling attention and concealing the truth; for otherwise the Government would have set about garrisoning its defenceless ports at any sacrifice, and the armed occupation would have been less easy, doubtless, but more honourable for Chile.

The defencelessness of the Pacific coast, and its remoteness from the Bolivian Government's centre of action and power, the unforeseen and abrupt nature of the act, the concealment of the design slowly and coolly conceived for a long time past, are circumstances which affect the integrity of the Chilean Government, and show the real character and import of the crime committed against Bolivia and against the public law of nations.

As that act with its reminiscences, disgraceful to the aggressor, is notorious to all, I forbear to trace the antecedents which combined to make it more odious, although the Cabinet of Santiago is endeavouring to represent it to the world as the most glorious deed of the Government.

The lengthy article published by the official newspaper, which I shall have the honour of forwarding to your Excellency, will give you a thorough knowledge of the question which Chile wants to settle by the easy means of employing force; at present I restrict myself to a Report which, although brief, will show that justice is entirely on the side of Bolivia in this international question.

Bolivia, which, under the name of "Upper Peru," was the portion of America which strove longer than any other to gain its emancipation, proclaimed its independence and autonomy in 1825, within the limits of the ancient provinces, which were to form the State. At about the same time, that is, in 1826, the territorial jurisdiction was specified of each of the eight provinces forming the Republic of Chile: the first being, according to the text of its Law, "from the desert of Atacama up to the north bank of the River Chapoa; the second province from the River Chapoa, etc."

This demarcation did no more than follow the ancient traditions, for the founder of Santiago de Chile himself, D. Pedro de Valdivia, in the letter addressed to the Emperor Charles V, giving him an account of the writer's voyage to that kingdom, used these remarkable words: "I travelled from Cuzco to the Valley of Copiapo,

which is the beginning of this land after passing the desert of Atacama."

The primitive constitution of Chile agreed with the conqueror and founder Valdivia's words, and documents afterwards referred to prove to conviction that the great desert of Atacama was an integral part of Upper Peruvian territory.

I could not enter into an examination of this matter without a prolix statement of dates, documents, accounts, and traditions, which will be brought forward in due time, but would be alien to the purpose of this despatch.

It was in 1842, on occasion of the discoveries of guano, in Mejillónes, that Chile first manifested her unfounded pretensions to the territory comprised between the 23rd and 24th parallels of south latitude. Then it was that she declared by a Law, not exactly the ownership of the territory in a direct manner, "but the ownership of the guano deposits existing in the desert of Atacama."

The Government of Bolivia immediately protested, and Chile had recourse to delay, and took arbitrary advantage of the political disturbances which unfortunately have been but too frequent in Bolivia. The labours and efforts of six several Legations appointed at different times have been unable to wean that Government from its premeditated course of shiftiness and procrastination.

The natural and inevitable consequence of such conduct has been the Chilean plan of occupying the coveted territory by main force *ad perpetuam*, at the most favourable opportunity.

That opportunity was afforded in 1878, when the Chilean forces were augmented on account of the Argentine question, and they have been directed against Bolivia.

A pretext was wanted, and the Chilean Government found one in the Law of the 14th February, 1878, enacted by the National Constituent Assembly, which imposed a duty of 10 cents per quintal on the saltpetre exported by a Joint Stock Company, to which the Bolivian Government had made a gratuitous concession of vast lands producing saltpetre: a purely private matter which could neither injure the rights of Chile nor affect her international policy.

The discussion respecting boundaries was interrupted in 1863, because the Chilean Government had always eluded the means of reconciliation and arbitration, still pursuing its plan of actual occupation, which it carried out in that year, giving Bolivia good reason to issue the Law of the 5th June, which authorized the Gov-

ernment to declare war, provided that the conciliatory means of diplomacy should fail to obtain the restoration of the occupied territory. For this reason the relations with that country were broken off.

Then came the Government of General Melgarejo, and whilst the principle of restoration conjured up by the ancient mother-country was disturbing American tranquillity, that Government signed the compact of alliance, in which Chile took part, and therewith stipulated the Boundary Treaty of 1866, defining the 24th parallel as the line of demarcation between the two nations.

The popular revolution of 1871, exercising an act of sovereignty, changed what the Melgarejo Administration had done; but in deference to the faith of international compacts, the arrangement with Chile was respected, and it was revised in 1874, when the principal condition of the demarcation at the 24th parallel was ratified. By Article IV of this latter Treaty—that Article having no necessary connection with the main object of the Treaty—Chilean subjects, their capital and occupation, were exempted from all impositions.

The Law of the 14th February, 1878, on revising and approving the concession made by the Government on the 27th November, 1873, to the Antofagasta Saltpetre and Railway Joint Stock Company, imposed a duty of 10 cents per quintal on the saltpetre exported, as the only compensation for the enormous and extra legal concessions gratuitously made to the Company, under the name of adjustment. The Legislative Body, which might have rejected as null and void that compact, manifestly injurious to the State, did no more than require the slight compensation above referred to, thus giving an extraordinary proof of the caution and tact with which it proceeded; respecting thus the plighted word of the Government, and reconciling, as far as possible, equity with law, and the interests of the Company with those of the State.

The Company, representing this as an intrusion upon its rights, renounced the litigation which it might have persisted in, and took upon itself to ignore all forms established by the Bolivian laws, by presenting its complaint to the Government of Chile, on the plea of Chilean nationality and residence at Valparaiso.

The Cabinet of Santiago lost no time in giving a diplomatic character to this proceeding, which was in fact one of home law, and in a despatch of the 8th of November, 1878, couched its decisions in an unusual tone, and with unexampled haughtiness, de-

manding that the operation of the Law of the 14th February should be suspended, or that the Boundary Treaties should be annulled.

Its allegation was that the aforesaid imposition violated Article IV of the Treaty of the 6th August, 1874. My Government considered this complaint neither well-founded nor just, inasmuch as the impost originated in a private contract, and was to be looked upon as a slight and insignificant compensation for the enormous and gratuitous concessions made to the Company. The execution of the Law was therefore ordered; but, as the Company had formally protested, ignoring the obligatory character thereof, the Government had to declare the contract of the 27th November rescinded, and consequently to order the suspension of the imposition impugned by the Chilean Government.

The contract, improperly called *adjustment*, having been rescinded, the discussion ought to have become a purely private question to be debated before the Tribunals of Justice, and in which the Chilean Government could not interfere, inasmuch as, the operation of the Law of the 14th February having been suspended, the impost itself, the pending trial, the alleged violation of Article IV of the Treaty of the 6th August, 1874, and, finally, the international arbitration proposed and required by that Government, had vanished all at once.

This, therefore, was the natural and logical solution of the dispute with the Company. The Tribunals having declared the legality of the revocation which the Government had pronounced in its administrative capacity only, the restoration of the saltpetre lands would be obtained by the same legal means and through the same Tribunals of Justice without tumult or violence. I am very proud to say, without hesitation, that the Bolivian Magistracy has more than once given striking proofs of its wisdom, of its high degree of enlightenment, and of its perfect independence.

This was remarkably evinced not long ago by a decision of the Supreme Court in favour of the Chilean citizen Juan Garday's claim against the National Government.

But unfortunately the international arbitration so earnestly insisted upon was nothing more than a pretext to conceal the pre-conceived project of conquest and annexation which has just been deliberately put in execution. And this is the reason why the Chilean Legation would not discuss the grounds of the resolution of the 1st February last, and hastened to precipitate the conflict.

Years ago the Chilean Government saw with envious feelings the rapid development and aggrandisement of the port of Antofagasta, coveted the wealth of Caracoles, and cast eyes upon the guano of Mejillónes, as a sure means of relieving the necessities of its empty Treasury; and it has taken the first opportunity to snatch those possessions from Bolivia. The love of lucre, stimulated by the facility of the enterprise, has been the real incentive to the Chilean invasion.

In enunciating a judgment so grave and severe, I ought to adduce the reasons upon which it is founded. The dictatorial despatch of the 8th November last from the Minister for Foreign Affairs of Chile even then threw light upon the aims of his Government; but having recollected the tenour of Article II of the Complementary Treaty of the 21st July, 1875, he had to propose arbitration much against his will. Meanwhile, formidable preparations for war were going on in Chile; the *Blanco Encalada* was sent to the waters of Antofagasta with sufficient troops on board for disembarkation; stronger forces were stationed in the port of Caldera, and the Chargé d'Affaires, Señor Videla, received peremptory orders to precipitate the discussion and to bring on the conflict. These were the antecedents to his despatch of the 8th February last insisting upon international arbitration; but in the meantime his Government and the military chiefs stationed at Caldera, without any knowledge or notice of the result of the negotiations that were going on in this city, broke the Treaties with Bolivia by invading her territory with an armed force; so that Señor Videla's negotiations were but simulated, and their only object was to distract the attention of my Government, which, very far from doubting the fidelity of the Chilean Government or the integrity of its Representative, felt quite sure that a question simply economical and of little importance could not be settled otherwise than amicably, and could never produce a *casus belli* between two neighbouring Republics which had belonged to the American alliance, and which, it was to be supposed, were animated with that spirit of peace and confraternity so necessary amongst the nations of the continent for their common development and progress.

* * * * *

However good the reasons may have been which were adduced against the execution of the Law of the 14th February, Chile had

no right to break the Boundary Treaties, or to allege reacquisition of what had never belonged to her.

The Boundary Treaties are considered as reciprocal cessions; they are real adjustments in which each of the Signatories gives up a part of its rights in exchange for the security of the rest. Your Excellency knows that these Treaties, like those of cession, exchange of territories, and in general all those which establish rights that cannot be tacitly abolished, have the character of perpetuity and are of such nature that, even when suspended during war, they revive at once without necessity of express agreement. This is the doctrine of the most approved jurists.

* * * * *

Chile has adduced no just reason whatever to account for the aggressive war which she has waged against Bolivia. Nothing can be more violent and unjust than the attack upon Bolivia, with the conquest of her territory and the rupture of her Boundary Treaties; and now that she has been placed in such an extremity, much against her will, she feels it to be her inevitable duty to have recourse to arms for the defence of her usurped territory, her defrauded revenues, her insulted dignity, and of her flag basely outraged on her own soil.

Bolivia has neither wished nor sought for war, for she is essentially pacific and respects the rights of other nations, but she has no fear of war, she accepts it willingly, and will shun neither effort nor sacrifice to repel force by force, to regain her rights, and to preserve the national honour intact.

Your Excellency will have the goodness to communicate this despatch to the high Government which you represent, so that, when fully acquainted with the present state of war, it may do justice to the attitude which Bolivia has been forced to assume and be pleased to fulfill toward her the duties consecrated by the common law of nations.

With sentiments of the most distinguished consideration, I subscribe myself, etc.

His Excellency

Eulogio Doria Medina

The Minister of Foreign Affairs of

No. 29. CHILEAN DECLARATION OF WAR AGAINST BOLIVIA
AND PERU

April 5, 1879

INTRODUCTION AND SOURCE.—Even after the meeting of the Chilean council of state March 28, 1879, which planned the expedition against Callao, efforts were made to secure peace. A proposal was made by a Chilean jurist that each country should cease war preparations, and that the tax of ten centavos should be suspended pending the deliberation of a congress of plenipotentiaries to be called at Lima. Lavalley agreed, but the Chilean war ministry refused. As late as April 2, the United States Minister at Santiago, Thomas Osburn, wrote to Washington that Lavalley was still in Chile and peace was still possible. But he did not know that military timetables had started.

The assessor of the fleet, Sotomayor, was due to arrive at Antofagasta where the fleet was stationed on April 1. Congress was to give authority for the war April 2, as it did, but it withheld the declaration a few days. The Chilean ministry wanted the fleet to strike quickly at Callao while the Peruvian ships were unprepared. One of Peru's iron ships had its boilers out and the other was being overhauled in docks. The fleet was notified April 2 of the war authority granted by congress and ordered to sail in war order, *procedan como en campaña*, to Callao. April 3 Lavalley and Godoi were to receive their passports which would give two more days before war should be formally declared. Here a strange thing happened to the military timetable. On April 3 Sotomayor cabled to Chile: "President—Fleet is going to Iquique not to Callao.³¹ Iquique 4,000 men 300 cavalry. Sail tonight."

On April 5, the anniversary of the battle of Maipo, Chile declared war on both Bolivia and Peru. The same day the Chilean fleet anchored at Iquique and the commandant and foreign consulates were notified that the port was under blockade. Seven days after the proclamation of war a circular was issued to the foreign chancelleries stating the position of Chile in the struggle. It is interesting to note that a few days before declaring war the government published in the official daily a long description of the desert not only to parallel 23°, but to the boundary of Peru. It was written in the glowing terms of a prospectus of a stock company's mine.³² The copy of the declaration of war is from *British and Foreign State Papers*, for 1878-79, Vol. LXX, pp. 184, 185.

Declaration of War by Chile Against Peru
Zenon Freire, Intendente of the Province of Santiago.

His Excellency the President of the Republic has communicated to me the following supreme Decree bearing this day's date:—

In virtue of the faculty conferred on me by No. 18 of Article 82 of the Constitution of the State, and of the Law of the 3rd instant I hereby grant and decree:

³¹ Iquique was the capital and chief port of Tarapacá, the great Peruvian nitrate center and rival of Antofagasta in exporting nitrates.

³² *United States Foreign Relations* for 1879, pp. 162-167.

The Government of Chile declares war with the Government of Peru.

The Minister of Foreign Affairs shall impart this Declaration to friendly nations, setting forth the just motives of the war; and the Minister of the Interior shall bring it to the knowledge of the citizens of the Republic, causing it to be proclaimed with due solemnity.

Given at Santiago, the 5th day of April, 1879.

Pinto

Belisario Prats

Alejandro Fierro

Joaquin Blest Gana

Julio Zegers

Cornelio Saavedra

Therefore, in order that this may come to the knowledge of all, let it be published and placed in the archives.

Given in my office, this 5th of April, 1879.

Zenon Freire

Ramón San Martín

Declaration of War by Chile Against Bolivia

Zenon Freire, Intendente of the Province of Santiago.

His Excellency the President of the Republic has communicated to me the following supreme Decree bearing this day's date:—

In virtue of the faculty conferred on me by No. 18 of Article 82 of the Constitution, and the Law of 3rd instant, I hereby grant and decree:

The Government of Chile declares war with the Government of Bolivia. The Minister of the Interior shall bring this declaration to the knowledge of the citizens of the Republic, causing it to be published with due solemnity.

Given at Santiago, the 5th day of April, 1879.

Pinto

Belisario Prats

Alejandro Fierro

Joaquin Blest Gana

Julio Zegers

Cornelio Saavedra

Therefore, in order that this may come to the knowledge of all, let it be published and placed in the archives.

Given in my office, this 5th of April, 1879.

Zenon Freire

Ramón San Martín

No. 30. PERUVIAN DECREE OF CASUS FOEDERIS

April 6, 1879

INTRODUCTION AND SOURCE.—When President Daza of Bolivia sent an envoy to Peru to request aid according to the terms of the alliance of 1873 the latter country was unable to give effective aid. She was practically bankrupt, great loans had been contracted against the declining deposits of guano; the monopolization of the nitrate work of Tarapacá had not helped matters, and 20,000,000 soles of paper money had been issued.

Nicolás Piérola had headed a revolution against President Mariano Prado, seized the best ship of the Peruvian navy, the *Huascar*, which the president had to proclaim a pirate ship. When Piérola interfered with some British passenger ships in order to get news and supplies Admiral De Horse, the commander of a British warship attempted to take the *Huascar* as a pirate ship. Piérola resisted and the *Huascar* fought De Horse's ship to a draw.³³ Although Piérola had little following and he surrendered the *Huascar* to the rest of the Peruvian fleet, the incident weakened the prestige of Prado's government, and it is related to show the state of unreadiness for war in Peru. The church party which vigorously opposed the public works policy of the government blocked legislation, to get pensions for the crew of the *Huascar*. Distracted without and within the government of Peru was not prepared to be of much help to Bolivia.

Chile controlled the ocean to the south and no war materials could be obtained from Europe although eleventh hour attempts were made to do so. Materials were ordered from the United States to be smuggled across Panama.³⁴ Naturally in Lima and Callao there was plenty of war excitement, but in the interior the war was not at first given much attention. It was by no means a popular war in Peru as it was in Chile where the "secret treaty" was considered sufficient *casus belli* in itself to say nothing of the "revindication" of the desert of Atacama. The decree of *casus foederis* by Peru was followed on May 1 by a long circular setting forth the position of Peru in the struggle. The decree is from *British and Foreign State Papers*, for 1878-79, Vol. LXX, p. 692.

Mariano I. Prado, President of the Republic, considering:—

1. That by the Treaty of the 6th of February, 1873, the Republics of Peru and Bolivia are solemnly bound to mutually guarantee one another their independence and sovereignty, and also the integrity of their respective territories.

2. That the insult offered by Chile to Bolivia by the occupation of the 23rd and 24th degrees of that country's sea-coast, under the pretence of revindicating their own, is equivalent to an attack on the said rights of Bolivia, and is expressly pointed out in the first

³³ *British and Foreign State Papers*, 1876-77, pp. 744-767.

³⁴ Flint, Chas. R., *Memories of an Active Life*. Chapter VIII.

portion of the IInd Article of the Treaty referred to as the chief and principal cause why the alliance should come into force.

3. That the Envoy Extraordinary and Minister Plenipotentiary of Bolivia, on a special mission, has requested, by order of his Government, the declaration of the *casus foederis*, and the consequent bringing into effect of the said Treaty; and that Peru has endeavoured by every conciliatory measure possible to keep the peace between the Republics in question, first interposing her good offices and afterwards offering her mediation in due form, the only result of which has been the declaration of war made by the Government of Chile against Peru:

I decree:

The Republic of Peru decrees that the *casus foederis* mentioned in the Treaty of the 6th of February, 1873, with Bolivia has arrived; and, consequently, the time has come when the alliance must come into effect with all its stipulations.

The respective Ministers of State are charged with the issuing of the necessary orders for the faithful and exact fulfilment of this Decree, and of making it known and published.

Given in the Government House of Lima, this 6th day of April, 1879.

Mariano I. Prado

Manuel Irigoyen

NO. 31. SOTOMAYOR LETTER URGING BOLIVIA TO BREAK HER ALLIANCE WITH PERU

April 8, 1879

INTRODUCTION AND SOURCE.—About the time President Daza was showing a belligerent attitude toward Chile and the latter was preparing to occupy Antofagasta, two prominent young men from Chile had approached two Bolivian ex-officials with a proposal to overthrow President Daza and to prevent Bolivia from going to war with Chile over Antofagasta, saying that Chile would aid Bolivia in taking Tacna-Arica from Peru as the former's natural outlet to the ocean. These officials, Casimiro Corral and General Manuel Rendon, had been exiled by Daza and were then at Puno, Peru. Naturally they would be expected to listen to such a proposal.

This policy was rather widely favored by Chileans of high position. When Chilean forces occupied Antofagasta and Cobija a Bolivian soldier, Colonel Canseco, who had been taken prisoner was given his liberty under the condition that he take similar proposals to enemies of Daza in La Paz.³⁵ On April 11, President Pinto wrote to Rafael Sotomayor who had already adopted

³⁵ Bustamonte, Daniel S., *Bolivia y Sus Derechos en el Pacifico*, p. 157.

the idea saying: "The most satisfactory solution of the question in which we find ourselves compromised (*comprometidos*) would be an alliance with Bolivia, by which she would take the southern departments of Peru, leaving us the coast to the River Loa. Bolivia once separated from Peru, the war would not last long. This chance won't come twice and Bolivia ought to seize it."³⁶ Besides trying to break the alliance by means of the political enemies of Daza an attempt was made to get Daza himself to break the alliance. The following letter was written by Justiano Sotomayor, former consul to Bolivia, who evidently was acquainted with Daza. From Prescott, *El Problema Continental*, pp. 287-290.

Santiago, April 8, 1879

Señor Don Hilarión Daza

La Paz

Apreciado amigo.

I have been here for a month and you will not need me to tell you why I have come.

The rupture of relations between Bolivia and Chile has been very painful to me, because I have always been of the opinion that there should not be any other countries in South America that should cultivate closer relations of friendship.

Peru, on the other hand is the worst enemy of Bolivia, she is the one that holds her under the weight of her customs regulations, the master of the commercial, industrial, and to a certain point political, liberty of Bolivia.

Chile has taken to Bolivia industry and capital. With that impulse mining has taken on considerable growth, which activity has had to effect the agriculture and wealth of the country.

Chile is the only country that can free Bolivia from the yoke which Peru imposes on her.

Chile is also the only nation which allied with Bolivia can give her what she lacks to be a great nation, namely, her own ports and free communication.

Can Bolivia hope to find in Cobija and the other ports of her littoral an outlet for her commerce? Profound error.

The only natural ports for Bolivia are Arica, Ilo, and Mollendo or Islay.

Allied with Peru and making war on Chile, what will happen to Bolivia if Chile is conquered? She will fall into the hands of Peru and suffer as before under the weight of her duties. And if Chile should triumph, what would the allies gain? Bolivia, conquered

³⁶ *Ibid.*, p. 158.

or conqueror, will remain without ports and handicapped as a nation.

On the other hand, Bolivia united to Chile, wouldn't she be sure of conquering Peru? Wouldn't she have it in her power to possess a door to the street which she now lacks?

One thing here I have noted since my arrival. There is no hatred whatever of Bolivia, the persons and property of Bolivians have been respected, the war with Bolivia hasn't stirred the country; except for some movement or other of troops we would seem to be in peace. But when the moment arrived to declare war against Peru the country arose en masse, as one man, and all have known that Peru has filled the measure with her intrigues, ingritudes and disloyalty, and all that is talked of is punishing her terribly.

Against Peru we will fight to the death; Bolivia, we cannot hate her.

Why are we going so out of the way making wars that we do not like and alliances even that we do not want?

Would there still not be time to put things in order? Why not?

Now or never Bolivia ought to think about gaining her place as a nation, her real independence, which certainly is not in Antofagasta but rather in Arica.

After this war it will be too late; Chile as conqueror would not consent to it, at least unless Bolivia does her part. Peru as a conqueror will impose the law on Bolivia her ally, and on Chile her enemy, and Chile weakened would not be able to aid Bolivia if she should ask it.

The man who should give to Bolivia her independence from Peru, would be greater than Bolivar and Sucre, because they only gave her an imitation of liberty and he would be giving her real and true independence.

Was not such a colossal enterprise reserved for you?

Your friend etc.,

J. Sotomayor

Copy.

Secretary of the Legation of Bolivia
P. Matienzo

No. 32. OPINION OF MINISTER THOMAS OSBORN ON CHILEAN OBJECTIVES IN THE WAR

April 10, 1879

INTRODUCTION AND SOURCE.—In his despatch to Secretary Evarts containing the Chilean notification of a state of war, Mr. Osborn said that he believed Chile would retain Tarapacá if she took it from Peru in the struggle. *U. S. Foreign Relations*, 1879, pp. 167-168.

Sir: As will be seen from the inclosed translation of a note received by me from the minister of foreign relations, war was formally declared against Peru on the 5th instant, and on the same day the port of Iquique was placed in blockade by the Chilean squadron.

The government promises a statement of the reasons for its action, for the information of friendly governments, in a few days. Awaiting it, I inclose a slip from a newspaper containing the "memorandum," published in the Official Gazette simultaneously with the declaration of war.

The army is being rapidly increased, and there is apparently no abatement in the enthusiasm.

Iquique is the great niter depot of Peru, and is situated about midway in the province of Tarapacá, from north to south. This province extends to the Bolivian frontier on the north, and is supposed to contain almost inexhaustible wealth in its niter and guano deposits. If Chili succeeds in getting possession of Tarapacá she will, I judge, insist upon holding it. An intelligent gentleman with whom I have conversed upon the subject, and who formerly lived in Tarapacá, estimates the value of its niter deposits alone at four hundred millions of dollars.

I have, etc.,

Thomas A. Osborn

No. 33. CHILEAN WAR CIRCULAR

April 12, 1879

INTRODUCTION AND SOURCE.—The statement of the side of Chile of the question, promised in the Chilean declaration of war, follows in a lengthy circular. From *U. S. Foreign Relations*, 1879, pp. 168-172.

Ministry of Foreign Affairs,
Santiago, April 12, 1879.

Mr. Minister: Annexed to the present note you will find a copy of the official gazette of Chili, from which you will learn the author-

ity conferred on my government by the high authorities of the state to declare war against Peru, and conduct it to an end by all the means recognized by the rights of nations, and with all the resources at the disposal of the country.

By order of his excellency the President of the republic, I fulfill the duty of informing you of the grave causes that have led to the formation of this unavoidable though lamentable resolution, which breaks old ties that Chili has always endeavored to strengthen.

* * * * *

My government very recently complied with its duty in manifesting to those with whom it has the pleasure to maintain cordial relations, the circumstances which obliged it to declare at an end the treaty existing with Bolivia, and to occupy the territory lying between parallels 23 and 24 S. lat.

* * * * *

It is painful, but at the same time indispensable, to bring to the memory of friendly powers another evident reason that my government could have wished not to reveal, out of respect to a state of the same origin. Official documents, and still more, the private history of Chilean industry on the coast between 23° and 24° S. lat., are witnesses that cannot be refuted to the fact that since 1866 to the date of the occupation of Antofagasta, the Bolivian Government appears to have conceived, organized, and put in practice an inflexible system of persecution against the development of Chilean enterprises which have been the only origin and the principal element of the wealth of that locality, never suspected and never stimulated by the private industry or national protection of Bolivia.

The capital of this republic, and that developed under the protection of our laws without distinction of nationality, being embarked in costly speculations, my government could not view with indifference the adoption by Bolivia of special measures tending to place Chileans in an exceptional situation. Soon after the treaty of 1866, and then after that of 1874, the painful certainty was realized that in Bolivia no idea existed of individual guarantees. Taxes were imposed under the pretext of municipal rates; disgraceful punishments were inflicted by the authorities on citizens of this republic; and finally, a Chilean enterprise for the working of nitrate beds, authorized by the Bolivian Government, afforded

a pretext for a law irreconcilable with the most essential stipulation of the treaty of 1874.

My government could not and ought not abandon its citizens to the caprice of that of Bolivia, and less to the discretion of its subalterns; and the official documents inserted in the reports of the ministry of foreign affairs since 1866 render unnecessary any additional proof that since then till now it has been impossible to restrain the action of the Bolivian authorities.

These precedents showed sufficiently that the occupation of Antofagasta was urgently required, through the violation of the treaty; and my government found itself under the necessity of ordering it, for the protection of interests and persons threatened by measures which respected no rights whatever.

The occupation effected on February 14 could not be considered as a declaration of war, and still less as a threat on the part of my government against the sovereignty of Bolivia. Nor was it reasonable to suppose that the cabinet of Santiago intended to modify the geographical limits of the neighboring nations. In this conflict, which never would have arisen if even a show of respect had been evinced for the spirit and letter of treaties, which this republic has aimed at from the beginning, with the greatest frankness, was to defend its national rights and to protect property. Before 1866 we possessed effectively up to parallel 23. By the treaty of that year we accepted the exploitation in common up to parallel 25; and subsequently we fixed the limits of Chili at 24, on condition of the neighboring republic leaving our industry free from any new exaction.

The situation of the two republics seemed to be clear enough. Chili renounced its effective possession up to lat. 23° S.; Bolivia ceded its fantastic pretensions up to lat. 24°; and both countries, respecting the fact that Antofagasta, Mejillones, Caracoles, and Salinas were of Chilean creation, agreed to guarantee the freedom of the industries established on those regions. . . .

* * * * *

It was our duty then to confide in the loyalty of Peru; still more, we had the right to demand it, either on the ground of a sincere friendship, or as a slight return for the blood of our citizens and our treasure spent in giving that country a nationality, and defending it at the price of our own ruin.

It was natural for us to give faith to the professions of neutrality

which the Peruvian Government transmitted to us through our plenipotentiary; and to consider as friendly the intimation given us by that cabinet, that until war was declared it must permit the passage of Bolivian troops through its territory, in virtue of a previous treaty.

There were, however, various antecedents which contradicted in a great measure the declarations that now we may stigmatize as insidious, with full knowledge of the circumstances. The President of Peru did not hesitate to express his fears for the pressure that might be brought to bear in an opposite sense by a reckless popular opinion. He hinted at the not improbable event of the action of the authorities being interfered with, and recognized the influence of certain circles whose disaffection to Chili is only founded on the childish jealousy with which our prosperity is regarded.

This caused my government to observe an attitude of vigilant expectation. According to the rules regulating the relations of friendly powers, it would have been rash to provoke a definitive situation; but according to the claims of our own responsibility and dignity, we were bound to prepare for any emergency.

This explains the reception accorded to the extraordinary legation from Peru which arrived at Santiago at the beginning of March, with words of peace and conciliation.

The nature of the complication with Bolivia did not exclude the possibility of some arrangement, as it was not our desire to make war unnecessarily. My government, however, believed that all mediation under the then circumstances was inopportune; that it had even been so when on a previous occasion it had been offered by the charge d'affaires of Peru; and that the cabinet of Lima had lost the occasion of interposing its friendly offices, even if it had at any time professed them.

* * * * *

Believing firmly that mediation for the moment was groundless, my government yet considered that such belief was not incompatible with hearing the ideas of the Peruvian Government, transmitted by its representative, Don José Antonio de Lavalle. At the preliminary conference held by the undersigned with Señor Lavalle, it appeared that the object of the mission was to exchange ideas and make general observations on the Chilino-Bolivian question. As then the belief became more pronounced in the existence of a secret treaty of alliance, concluded in the year 1873 between

Peru and Bolivia, it seemed advisable to interrogate Señor Lavalle concerning an event of such importance; and as at the same time an unusual activity was observable in the army and navy of Peru, explanations were demanded as to the signification and object of such preparations.

Señor Lavalle gave the following reply:

"That he had no knowledge of the treaty alluded to; that he believed it had no existence; that it could not have been approved by the Congress of 1873, because the legislature being biennial till the constitutional reform of 1878, that assembly did not meet in that year; and that he was sure it was not approved on the following years, during which he had the honor of presiding over the diplomatic committee of Congress, at which such negotiation would necessarily have had to be discussed. But nevertheless, as since his arrival in Chili he had heard the existence of this treaty spoken of, he had asked instructions from his government, which he would communicate immediately they were received."

Respecting the belligerent attitude which Peru commenced to assume, its representative attributed it to the special condition of its territory, and to the necessity of preventing its violation by the operations of the belligerents, which it was reasonable to anticipate, as the Bolivians had invaded it even in the cases of internal commotion.

These explanations were not tranquillizing, because they were not conclusive, and confirmed my government in the conviction that it would be necessary to resolve so equivocal a situation before the cabinet of Lima itself; and even without knowing its antecedents, instructions were sent at the first moment to our minister at that capital, to ask for a prompt declaration of neutrality.

The cabinet of Lima, as I have already had the honor of stating to your Excellency, declared to our representative in verbal conference that it would be neutral in the conflict with Bolivia, and that such resolution would remain in suspense until the declaration of war were notified to it.

On March 14 our minister in Lima announced to my government that the charge d'affaires of Bolivia had made known to the diplomatic corps there resident that his country was at war with Chili, and on the same day orders were sent Señor Godoy to demand the declaration of neutrality. It was asked for, in moderate terms,

on the 17th of the same month, and the Peruvian chancellery, replying on the 21st, referred to instructions that would be transmitted to its envoy extraordinary in Chili, without explaining the reasons which induced it to delay the solution of a legitimate right which gave no margin for further explanations. The disloyal evasion of Peru was unacceptable even to the least suspicious judgment, and for this reason my government informed Señor Godoy on the same day that it did not admit of such a tardy course being adopted; that it insisted on claiming its right in Lima itself; and that it now not only asked Peru to define its attitude, but demanded a frank explanation as to the object of its armament, and substantial guarantees for the future, in the event of any probable contingency.

* * * * *

The moment had therefore arrived to dissipate all doubt. My government, sensible of the responsibility weighing upon it, and being aware of the extent of the right of self-defense before an ill-defined neutrality that was arming in every haste, did not hesitate to give its demands the pressing nature that the gravity of the situation demanded.

On the said 21st of March, Señor Godoy communicated to my government the result of that step, but the defective telegraphic transmission necessitated the rectification of the dispatch, which from various causes could not be effected before the night of the 24th. His note had not been replied to in writing, but in verbal conference he was given clearly to understand by the Government of Peru that it was impossible for it to assume a neutral attitude, owing to the existence of a treaty of alliance with Bolivia. In spite of the importance of this declaration, that government insisted on Chili abiding by the explanations of the Peruvian envoy; and exhibited, with an impassiveness at variance with the simplest demands of honor, the desire of postponing the solution of the problem.

Notwithstanding, my government, obedient to the respect which it has always professed toward the opinions of other nations, and desirous of avoiding the reproach of hastiness by the omission of any essential requisite to establish clearly the situation of Peru, endeavored to obtain explicit and exact explanations.

On the said 24th of March, peremptory instructions were sent to our minister at Lima. According to them he was to insist that

the question of neutrality should not be discussed in Chili; that we demanded the immediate and guaranteed suspension of the armament, and the production of the secret treaty, inquiring if it was approved in due form, and if Peru was disposed to abrogate it immediately and give us the requisite explanations for having negotiated in secret, while on terms of friendship with us, a treaty showing want of confidence in and even of hostility toward Chili.

Such were our last demands and their just foundations. Our representative in Lima, putting them into prompt execution, conferred verbally with the head of the Peruvian Government and the members of his cabinet.

The result of those conferences was the following declarations, which suffice without any comment to show the international policy of a government allied till then with us by a treaty of friendship offered by Chili when the ancient masters of Peru imposed on it an humiliating vassalage.

The cabinet of Lima, without a tinge of shame, undeterred by recent events, without even the frankness which occasionally excuses great faults, tranquilly answered our minister:

1. That it would not declare nor assume an attitude of neutrality, though with an incomprehensible logic it offered, nevertheless, on its already violated word, to suspend its warlike preparations.

2. That the secret treaty with Bolivia—a shameful net spread for our friendship—was duly completed for a long time past.

3. That that treaty, whose hidden existence was the best proof of its bastard nature, had to be kept secret in accordance with one of its articles, calculated cunningly against the friend of many years, the ally in trouble, the savior in the two great crises of the nation that with such a monument testified its gratitude; and

4. That a copy of this singular treaty had been remitted to Señor Lavalle; but on the understanding that it should only be read to us, doubtless to satisfy our curiosity to know a negotiation whose like can scarcely be found in the darkest records of diplomacy.

It is not surprising that the cabinet of Lima had the assurance to insist, with all the appearance of seriousness, on the possibility of the continuance of the pending negotiations.

If all this was not war, such as it is understood by civilized nations, it signified the same thing, under the transparent disguise

of a mediator who assumed the double part of a friend when he was an interested belligerent.

The secret treaty of February 6, 1873, needs no lengthy examination to ascertain its object; and the reserve in which it has been maintained confirms in the least suspicious mind the conviction that it was entered into solely as a means of security for the fiscal egoism of Peru in its pecuniary troubles, and to aid the schemes of the Government of Bolivia, a perpetual conspirator against the treaty of 1866. In 1873, neither Peru nor Bolivia was threatened by the remotest danger of territorial dismemberment; and much less could it be foreseen that Chili cherished such idea, seeing that it had granted to Bolivia whatever that republic demanded in the convention of 1866—applauded by the Bolivian people as a splendid manifestation of Chilean generosity.

The treaty of 1873 owed its origin—hidden as a shameful act—to the measures adopted by Peru at that epoch, to justify one of the most audacious and cruel spoliations witnessed by countries submitted to a *régime* of common respect toward the industry of all nations.

Peru desired to monopolize and appropriate the nitrate works; and in order to sustain its daily diminishing credit, adopted the supreme measure of ruining an industry to satisfy a fiscal voracity that could not satisfy itself with the ordinary resources of a country that has lived, thanks to its territorial wealth, in complete obliviousness of economy and labor.

* * * * *

It is evident that Peru sought in the treaty of 1873 to protect the financial measures it meditated against an industry that in any commonly scrupulous country would have had the right to develop itself freely. What it desired was to strengthen the nitrate monopoly without considering the sums invested in that industry; for in vain are antecedents of any kind scraped up to justify the belief, not probable, but even possible, of any aggression against the independence or dominion of the contracting powers.

* * * * *

As a last analysis, the Peru-Bolivian convention was for Peru the cold calculation of a trader; and for Bolivia a vote of indemnity which covered the previous violations and future infractions of the agreement of 1866. The monopolizing interest of the former republic and the international ill faith of the second, found their

faithful expression in that document, whose celebrity will be as lasting as the condemnation which the honest conscience of every civilized people will attach to it.

And this, your Excellency will observe as an original lesson of diplomatic loyalty, was on the eve of adjusting the treaty of 1874, when Chili, without necessity, and only in homage to peace, being able to exact the fulfillment of the treaty of 1866, agreed to renounce its recognized right to the territory between 24° and 23°.

There is even yet something more worthy of observation. Article 3 of the secret convention reserves to each party the qualification of the *casus foederis*. The 8th establishes, as a solemn pledge, to avert war as far as possible, employing conciliatory means to avoid a rupture, and among them arbitration.

* * * * *

All this would merit, on the part of any power disinterested in the conflict, qualifications too severe for my government to repeat here out of respect for that of your Excellency. The nations whose worthy representatives I have the honor to address will observe by the accompanying documents, that even accepting as obligatory the secret treaty of 1873, the Peruvian Government was free from any pledge. That of Bolivia refused the arbitration referred to in article 8 of the secret treaty, as it did in the treaties celebrated with Chili; and the *casus foederis* had not occurred, inasmuch as Chili stated, and repeated frequently, that it did not intend to conquer a hand's breadth of Bolivian territory. Peru not only could but should observe the strictest neutrality, even observing the secret stipulations binding it with Bolivia; because these are founded on the existence of a threat against territorial integrity, which was never thought of on our part; and because they also fix as an indispensable precedent to the *casus foederis* the previous recourse to arbitration.

The explanations given by Señor Lavalle, far from attenuating, strengthened more clearly, if that be possible, the terminent spirit of the treaty of 1873. How accept the trifling excuse that it contained a generic stipulation, not directed at Chili, whilst it is carefully hidden from her knowledge? If the treaty meant a general guarantee against any advance of a foreign power, why was the co-operation of Chili not sought, which has given more than one example of being the first to contribute, with its men and its

wealth, toward the maintenance of the sovereignty of nations of a common origin?

It was still more inconceivable that Peru should inform us by its envoy that the reserve of the treaty arose from one of its conditions, fearing our susceptibilities might be wounded if it proceeded to act as mediator while informing us of its relations with one of the belligerents.

To discuss such allegations would be merely to tire your patience, and is doubly unnecessary, inasmuch as Peru from the beginning of the conflict has done everything in its power to elude any explanation relating to the secret treaty.

My government needed no extraordinary effort to ascertain, from the acts and declarations related, what was the position that Peru preferred to assume, what were the rights, and, more than all, what were the duties that were consequently imposed.

The mediator offered himself, backed by an army, whose rapid reunion testified to the prevision of proximate conflicts, manned his navy, and, whilst uncertainly stammering words of impartiality, allowed to transpire the engagement of a belligerent duly sealed.

It was Peru which, if it did not declare war first, with the frankness of a noble resolution, commenced it first; and, what is worse, a war hidden and sheltered under false protestations of friendship.

Chili has never forgotten the course marked out by the patriotism of its sons, the energy strengthened by the conviction of violated justice, and its historic name among civilized nations. It is Peru that has plotted and desired war; let Peru, therefore, be charged with the responsibility, whilst Chili delivers its future to the protection of God, to the stout hearts of its citizens, and to the just opinion of enlightened nations.

I have, etc.,

Alejandro Fierro

NO. 34. PROTEST OF THE DIPLOMATIC CORPS AGAINST THE SHELLING OF PISAGUA, IQUIQUE, AND MOLLENDÓ

April 29, 1879

INTRODUCTION AND SOURCE.—It is probable that had the Chilean fleet sailed for Callao as planned on April 5 it would have found the Peruvian fleet and fortress still unprepared and the war would have been of short duration. South American historians have indulged in many discussions on this point and the real reason for the change in plan is not yet explained to the complete satisfaction of the student of causes.

The Chilean fleet was occupied in blockading ports whose wharves and piers could easily have been destroyed and the Peruvian fleet was given time to prepare for the sea. While landing parties were destroying the shipping facilities they were fired upon. In retaliation for this the Chilean fleet shelled three ports that were not fortified. This drew the following protest from the diplomatic corps at Lima. The document is quoted to indicate the foreign interests on the guano coast. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 217.

The Ministers of France, United States, England, Italy, and Germany to Rear-Admiral Williams Rebolledo, Commander-in-chief of the Chilean squadron.

Admiral: The undersigned, though desirous of preserving the strictest neutrality in the war now being carried on between Chile and Peru, consider it also their bounden duty to protect, as far as possible, the interests of the subjects and citizens of their respective countries.

The undersigned are perfectly aware that neutrals residing in a belligerent country must, to a certain extent, submit to many risks similar to those sustained by the natives; but they cannot admit that a belligerent has any right wantonly to destroy the property of neutrals, or to put them in peril of their lives.

The undersigned would remind your excellency that it is a principle of modern warfare not to destroy unfortified commercial towns, nor to fire into any peaceful community, without affording neutrals and non-combatants the time necessary to withdraw not only themselves but their personal property out of reach of the fire of the attacking belligerent.

Should this principle be or have been neglected, the undersigned may add that their respective governments will be entitled to hold the Government of Chili responsible for all losses to which their subjects or citizens may have been subjected.

According to the information we have received, but without wishing to decide as to the exact facts, it would appear that the commander of the Chilean iron-clad, the Admiral Cochrane, in reply to some rifle-shots discharged upon his boats, which were engaged in destroying the property of the inhabitants, suddenly opened fire with shot and shell on the large commercial town of Mollendo, inhabited by thousands of unoffending people, both foreign and Peruvian.

In Pisagua the course pursued is stated to have been even more regrettable, as, after a skirmish between the Chilean boats engaged

in destroying trading launches, and the soldiers on the beach, the Chilean squadron opened fire upon this purely commercial town without any previous notice, and did not cease firing until nine-tenths of the houses were laid in ashes, with immense loss to neutrals, as at least two-thirds of this loss will fall on foreigners.

It will be the painful duty of the undersigned to draw the attention of their respective governments to these bombardments of unfortified commercial towns, and to the heavy losses thus unnecessarily inflicted on neutrals.

They consider also that they are but fulfilling a distinct duty in thus drawing your excellency's attention to the opinion they have formed of the proceedings of the Chilean squadron in Mollendo and Pisagua, and in a lesser degree at Iquique.

Accept, admiral, the assurance of our high consideration.

(Signed by the ministers of France, United States, England, Italy and Germany.)

No. 35. THE PERUVIAN COUNTER MANIFESTO

May 1, 1879

INTRODUCTION AND SOURCE.—In answer to the Chilean circular of April 12 Peru issued the following counter manifesto.—*Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 229-236.

Sir: The exposition which was addressed on the 12th of April to all friendly governments, by the minister of foreign affairs of Chili, reveals the fallacy of the motives which have led that government to declare war against Peru.

* * * * *

The government of Chili having lost prestige in its own country, through the policy which it had followed in the question of the Argentine Republic, by maintaining for a long series of years, and in a most irritating manner, exaggerated pretensions over the straits of Magellan and the Patagonian coast, and by afterwards abandoning them before the energetic attitude of that nation; embarrassed by the increasing depression of its industries, and by an overwhelming commercial crisis which was daily destroying the principal sources of its prosperity, it suddenly turned its attention to the Bolivian coast, the object of its ancient and oft deferred aspirations, in order to realize an easy conquest which should re-establish it in the good opinion of its citizens, and replenish its exhausted treasury with the abundant wealth which Providence

had bestowed upon that privileged territory. For that purpose it needed some pretext which should enable it to initiate its shameful programme, which was found in the question which had sprung up between the Nitrate and Railroad Company of Antofagasta and the Bolivian Government, on account of the moderate tax of ten cents which the latter had established upon the exportation of each quintal of nitrate, as a means of forcing the settlement of differences then existing.

Although in this question, which was on entirely private one, and as such subject solely to the laws and tribunals of Bolivia, there was no excuse for the interference of any government, that of Chili arrogated to itself the defense of those interests belonging not only to Chilians, but also to citizens of other nations; taking as a basis Article IV of a treaty celebrated with Bolivia in 1874, it demanded the suspension of the tax under threat of annulling the treaty.

* * * * *

The latter government, [Chile] which up to that moment seemed to have forgotten so sacred a pledge, as was evident by the terms of its demand, was forced to acknowledge it by requiring Bolivia to suspend the execution of the law imposing a tax on the Nitrate and Railroad Company of Antofagasta, in order to submit the matter to the arbitration prescribed by the treaty.

And your excellency must bear in mind that while Chili thus appeared ready to enter into an amicable arrangement with Bolivia, it had sent one of its ironclads to Antofagasta with forces ready to land, and another portion of its fleet to Caldera with all descriptions of war material, assuring the governments of La Paz and Lima, through its respective legations, that the ships and forces dispatched to that port had no other aim than to insure, in case of necessity, order and tranquillity on shore, in harmony with the *Bolivian authorities*.

During this interval the Bolivian Government, animated by a desire to avoid a conflict with Chili, and deferring at the same time to the good offices interposed by Peru, yielded to the pretensions of the former republic by suspending the execution of the law imposing a tax on nitrates, and by accepting arbitration.

This fact should have effectually put an end to all difficulties, and my government believed it would; but the Government of Chili, which was determined by all means to destroy the treaty of 1874 and to seize a portion of the Bolivian coast, found a new pre-

text in the decree issued by the Government of La Paz rescinding the private contract which it had celebrated with the Nitrate and Railroad Company of Antofagasta. Such a resolution, even on the hypothesis of its being unjust and illegal, is not a sufficient cause to justify a government violently to break a treaty, and still less for taking possession of the coast of its opponent under the pretext of *revindicacion*, as has been done by Chili, since before impartial minds it would not be justifiable even to exert the mere pressure of force.

* * * * *

Chili endeavors to justify its conduct by alleging that the territory comprised between parallels 23° and 24° of south latitude belonged to it by right of dominion and possession before the treaty of 1866; that it was ceded to Bolivia on condition that the latter would not impose additional taxes on Chilian industries and capital for 25 years; and that this republic, having set aside that stipulation, it became necessary to bring things back to their previous status.

In order that your excellency may appreciate the inaccuracy of those statements, it will be sufficient for me to bring before your enlightened consideration the declarations made by the Chilian foreign office itself, and contained in the memorial of the minister of foreign affairs addressed to the National Congress of that republic in the years previous to the treaty of 1866.

In the memorial of 1861 is found the following: "*The Treaty of Boundaries* which was being negotiated with the republic of Bolivia has met with unexpected interruptions. The Government had cherished the idea that amicable and prudent arrangements would effectually dispose of questions as to the *uncertainty of limits* which heretofore had been the source of difficulties between the two countries, and regrets that the steps taken in this direction have been fruitless."

* * * * *

It is then a demonstrated fact that before the treaty between Chili and Bolivia of August 10, 1866, there was an *uncertainty as to the limits between the two countries*, and also negotiations for the celebration of a treaty which should settle all their differences, whereby it is apparent that the assertions made by Señor Fierro, in his memorial to the friendly powers, are wholly inexact when he assures them that Chili, before the treaty referred to, "enjoyed

dominion and possession over the territory comprised between the parallels of latitude 23 and 24."

Had Chili been in that situation, she certainly would not have sustained through long years the negotiations to which she refers in her own documents, and still less would she have carried her disinterestedness to the extent of abandoning a rich territory merely to ingratiate herself with the Government of Bolivia. Thoroughly convinced that the territory in dispute had at no time belonged to her, she would not accept the arbitration proposed by Bolivia, and feeling confident that, under any circumstances, the verdict would be adverse to her pretensions, she celebrated the treaty of 1866, the first article of which is as follows: [See Doc. No. 20]

* * * * *

It was necessary to set forth the antecedents to which I have referred, and which extend over a period of twenty years, in order to present in a proper light the origin of a dispute which culminated in the occupation of the Bolivian coast, and which has led Chili to declare war against Peru. These antecedents, moreover, are indispensable in order to arrive at a conclusion that the conflict between Chili and Bolivia, so long sustained, was amicably settled in the treaty of 1866, and ratified in 1874, wherein the two high contracting parties reciprocally renounced the right which each claimed over territory in Atacama.

* * * * *

It is not true the treaty of 1874 is conditional or that Chili has ceded her rights over the territory comprised between the parallels 23° and 24° of south latitude, on condition of the non-imposition of additional taxes on Chilean industry and capital, and is affirmed by Señor Fierro. Chili could not cede that which had never belonged to her, and still less stipulate conditions for similar concession. In the treaty of 1866 she recognized the dominion of Bolivia over the territory which extended to the 24th parallel of latitude, declaring that that republic might exercise over that territory all acts of jurisdiction belonging to the "lord of the soil."

* * * * *

The Government of Chili has, however, ignored these obvious principles in the autonomy of sovereign states; and in the midst of peace has broken the treaty of boundaries by taking forcible possession of territory which she herself declared belonged to Bolivia, and over which she had recognized the sovereignty of that

nation from the year 1866 to the 14th February last; and she had proceeded to carry out her programme invoking the absurd and untenable principle of *revindicacion* which she has herself condemned in 1864, after the occupation of the Chincha Islands by the Spanish fleet, thereby shaking the foundations underlying American nationalities, and creating deep hatred and an unextinguishable desire for revenge, and tremendous consequences of which it is impossible to foresee or calculate.

At various conferences which our envoy held in Santiago with his Excellency the President, as well as with his minister of foreign affairs, it was always sought to hide from him their secret designs by speaking in such terms as to make him expect the possibility of the evacuation of the Bolivian coast, for the purpose of wringing from him a declaration of *absolute and unconditional* neutrality, and if not officially, at least through respectable sources, certain ignominious arrangements were proposed to him, which our representative rejected with dignity, as had been previously done by our chargé d'affaires, notwithstanding the fact that those propositions favored Peruvian interests. Among them was that of dividing Bolivia between Chili, Peru, the Argentine Republic, and Brazil, and making of it, in the words which were employed, an American Poland; and another proposal was that Chili should retain the Bolivian coast, that Peru should cede Iquique and Arica to Bolivia, and that Peru should receive in exchange the Ecuadorian province of Guayaquil.

* * * * *

The negotiations having been established in Santiago, and this ministry believing that the Chilean cabinet was imbued with a more peaceful and conciliatory spirit than that which was manifested, in all his acts, by their plenipotentiary in Lima, it hastened to address Señor Lavalle, empower *ad hoc*, a note in which are satisfactorily disposed of all the charges which were brought against my government, and recommending him to read the same to Señor Fierro and leave with him a copy of the document if he desired it.

* * * * *

In said document my government declared that as it did not then have official knowledge of the occupation of the Bolivian coast, and as it was not aware of the significance and true aim of that act, the opportunity had not yet arrived to express its opinion and define the attitude which it should assume, and that its policy de-

pended upon two conditions which could not be disregarded, to-wit, the existence of the treaty of defensive alliance binding Peru to Bolivia, and the decision of the national Congress, which had been convened for the exclusive purpose of marking out the line of conduct which the government should follow.

The minister of foreign affairs of Chili, however, presumes to affirm that the cabinet of Lima promised the Chilian plenipotentiary the neutrality of Peru. The inaccuracy of this assertion is demonstrated not only by what I have already set forth, but also by the positive declarations which were directly and repeatedly made to the Chilian Government by our plenipotentiary, Señor Lavalle, that Peru could not and should not remain neutral in Chili's contest with Bolivia.

* * * * *

Nor is it true that Peru, while exercising its mediation at Santiago, had supplied Bolivia with arms and ammunition; and my government hastened to repel this charge with becoming dignity, at the very moment when it was advanced by the Chilian envoy. Not only did Peru carry its good faith and peaceful inclination so far as to refuse warlike supplies to Bolivia, but it endeavored to prevent the departure from La Paz of the army, which was burning with ardor to rush to the recovery of their country's usurped territory, as well as the sailing of a privateer which the Government of Bolivia, which is not a signatory to the declaration of Paris of 1856, had prepared to prey upon a rich and defenseless commerce. She omitted nothing in her unconquerable purpose of amicably settling the differences between the two countries.

* * * * *

A nation completely disarmed as was Peru, and fearful that its interests should be compromised in the struggle if the contending republics did not arrive at some understanding, could not but labor sincerely and enthusiastically in favor of peace, and my government did so, suppressing the deep indignation produced in its own conviction and that of the whole country by the scandalous outrages against our consulates in Valparaiso and Antofagasta, committed in the presence of the Chilian authorities and forces, and which no doubt were expressly prepared with a view to provoke a rupture in the good relations which had been maintained up to that time.

* * * * *

The treaty of alliance with Bolivia could not likewise be construed as a cause for war, inasmuch as in its celebration the contracting parties merely proposed to guarantee to each other their independence, their sovereignty, and the integrity of their respective territories through their mutual defense against any aggression by other nations, which fact does not imply an offense against any state whatever. Similar alliances abound in the department of foreign affairs of other nations, and have never given rise to doubt as to the good faith of the government celebrating them.

* * * * *

On the other hand, the existence of this treaty, notwithstanding the secrecy of its character by virtue of one of its stipulations, was not unknown to Chili. Her public men, and even her ministers of state, at different periods, have mentioned it and frequently referred to its contents.

Moreover, the Chilian Government had official knowledge of its existence from the commencement of the troubles with Bolivia, as the President of this republic and the undersigned communicated to Señor Godoy its principal stipulations, which, far from embarrassing, supported and justified the mediatory and friendly attitude which Peru had assumed in its efforts to avert war between two friendly republics, and to avoid the occurrence of the emergencies which would necessitate bringing in to effect the secret alliance.

* * * * *

The real cause therefore of the war which Chili has declared against Peru is to be found in her vaulting ambition, in her vehement desire to grasp the Bolivian coast, which abounds in guano, nitrates, and other minerals. This she has been seeking for years without hesitating at the employment of any means, even those which are forbidden, and she incessantly seeks the accomplishment of her ends. Taking advantage of Bolivia's internal difficulties, Chili attempted to wrest from her the territory comprehended between the 23d and 24th parallels of south latitude; and not satisfied with this concession, she has endeavored to set Bolivia at war with Peru, by promising assistance, as I have already stated, in the work of seizing the department of Tarapacá in exchange for the territory bordering on the Loa.

* * * * *

While the truce with Spain had not yet been agreed upon and *the state of war*, therefore, still continued, the Chilian representa-

tive in London, without Peru's knowledge and acquiescence, arranged with the representative of Spain to obtain from England's ship-yards the vessels which both had ordered to be built, thus allowing a common enemy considerably to increase her naval forces.

Not having then realized her perfidious combinations she ordered the construction of powerful iron-clads which might enable her to assert supremacy in the Pacific and impose her will upon the nations of the Continent. As soon as she felt her strength she renewed her task against Peru by inspiring the governments and leaders of Bolivia with the idea of seizing a portion of our territory; and availing herself of the first opportunity which offered she has declared war against us, which has been her aim for many years, as the question with Bolivia has been a mere pretext which is proved by several very important public documents in which she has proposed to that power immediate peace, and the compensation of her territory with the more valuable possessions of Peru.

In the light of these antecedents your excellency will appreciate the true motives with which Chili has declared war against us, and will perceive upon which side justice lies.

In the mean time Peru, prematurely drawn into the conflict, places her destinies under the protection of Providence, relying on the justice of her cause, and depending upon the alliance with the noble Republic of Bolivia, trusting in the devotion of her sons and the tried bravery of her army and navy, she cherishes the conviction of her ability to punish her gratuitous enemy.

With sentiments of the highest consideration, I have the honor to subscribe myself your excellency's obedient servant,

Manuel Irigoyen

PART II

DOCUMENTS RELATING TO PEACE PROPOSALS IN THE WAR OF THE PACIFIC

No. 36. MEMORANDUM OF CHILEAN PROPOSALS TO BOLIVIA

May 22, 1879

INTRODUCTION AND SOURCE.—One of the diplomatic features prominent all through the Question of the Pacific is the attempt of Chile to break the Bolivia-Peru alliance. It figured not only in diplomatic efforts but in affected military plans. It had long been seen by Chilean statesmen that any settlement that did not provide Bolivia with an outlet to the sea would be unsatisfactory and could be maintained only as an armed peace. Since Chile was in possession of the littoral that Bolivia had been using, in a connection with the coast it would leave her morally bound to provide an outlet.

Following the attempt of April 8 to influence President Daza he answered evasively and asked for another proposal.³⁷ On May 22 under the direction of the President, the council of state of Chile outlined the following bases for the proposed realignment. From Prescott, *El Problema Continuo*, pp. 285-287.

BASES:

1st. The friendly relations that have existed between Chile and Bolivia, and which have only been interrupted since February of the present year, shall be resumed. Consequently the war between the two republics shall cease, and the armies of each shall be considered in the future as allied in war against Peru.

2nd. In attestation that all motives of discord shall disappear between Chile and Bolivia, the last-mentioned republic shall recognize as the exclusive property of Chile all the territory that has been mutually disputed, and which is comprehended between parallels 23 and 24 s. lat.

3rd. As the republic of Bolivia has need of a portion of Peruvian territory in order to readjust its own, and give it an adequate means of communication with the Pacific which it has not at present, without being subject to the trammels which the Peruvian government has ever laid upon it, Chile will not embarrass the acquisition of such territory, neither will it oppose its definite

³⁷ See *supra*, Doc. 31.

cupation by Bolivia, but, on the contrary, will give it the most efficient aid.

4th. The help given to Bolivia by Chile during the present war with Peru will consist of grants of arms, money, and other articles necessary for the better organization and service of its army.

5th. Peru being conquered and the time for peace stipulations having arrived, peace cannot be effected by Chile unless Peru celebrate it also with Bolivia; in which case Chile will respect the concessions of territory that Peru may make to Bolivia, or that she may impose on Peru, neither may Bolivia effect a peace without the concurrence and interposal of Chile.

6th. Peace being proclaimed, Chile will leave Bolivia all the armament that may be considered necessary for maintaining in security the territory that may have been ceded by Peru or have been obtained from it by occupation, without any claim being made for the sums of money that Chile may have loaned Bolivia during the war, which at no time shall exceed six hundred thousand dollars.

7th. It remains in consequence established that the indemnification of war that Peru may have to pay Chile must of necessity be guaranteed considering the financial condition of Peru and its unreliability in the fulfillment of its promises, by the saltpeter works of the Department of Tarapacá and the guano and other substances that may be found there.

A special convention will arrange this matter.

Similar conventions will be instituted regarding other points which it may be necessary to arrange.

Domingo Santa Maria

NO. 37. PEACE PROPOSALS OF NEWTON D. PETTIS, MINISTER TO BOLIVIA

June, 1879

INTRODUCTION AND SOURCE.—President Anibal Pinto of Chile soon after the war started sagely remarked that everybody knew how and when the war started, but nobody knew when it would end. A ministry had been formed on April 19 which stated the war aims of Chile as the definite retention of Antofagasta and the desert to parallel 23°, the breaking of the Bolivia-Peru alliance, and assurances that Peru would not interfere in the affairs of Chile.³⁸

The Argentine question was not definitely settled and that country seemed inclined to press its claims in Patagonia. A decisive military move was now

³⁸ Búlnes, Gonzalo, *Guerra del Paífico*, Vol. I, pp. 245, 246.

necessary if Chile was to reap the result of its occupation of the desert without intervention. Preparations were being made for land forces to move against Tarapacá when Admiral Williams Rebolledo, who had refused to go to Callao on April 5, feigned an attack on Arica and sailed for Callao on May 16. Coincidentally the two Peruvian ironclads were sailing south reconnoitering and the enemy fleets missed each other. Arriving at Iquique one of the Peruvian ships, the *Huascar*, sunk a smaller Chilean warship that had remained there to keep up the blockade. The other ship, pursuing a small Chilean ship close to shore, ran aground—a costly loss, because it was one of the only two effective vessels owned by Peru.

When Admiral Williams Rebolledo reached Callao and learned of the departure of the Peruvian ships he sailed south at once, but missed the *Huascar*. For several months Captain Miguel Grau of the *Huascar*, who was soon made an admiral, cruised up and down the coast eluding capture, carrying succor to Arica and Tarapacá, and raiding Chilean ports.

Meanwhile, Spencer St. Johns had tendered the good offices of his government to prevent a trial at arms. Colombia very soon appointed a commissioner, Dr. Pablo Arosmena, to visit the belligerents and to attempt mediation. Ecuador made a similar move. In Argentina there were public demonstrations in favor of the allies and the Patagonia question again became acute.

Mediation and meddling came simultaneously. Horace Fisher, a former colonel in the Union army who was acting as Chilean consular agent in Boston when war was declared, at once got an interview with President Hayes and Secretary Evarts. Telling them he was going immediately to South America and offering to take any despatches the government wanted to send, he got a special passport as bearer of despatches. He then sailed for South America via Panama with a number of messages on routine affairs to consuls and ministers along the way. At Panama he did Chile a good turn by discovering that munitions of war were being smuggled over the isthmus, and went on to Lima where he gave the impression of being an important messenger of the U. S. State Department.³⁹

At the same time that Colonel Fisher was thus engaged the United States Minister to Bolivia, Judge Newton D. Pettis, had taken steps toward the settlement of the question by mediation. He was prompted by the double purpose of avoiding bloodshed and of advancing the prestige of his government. There were rumors of offers of mediation by European powers and Mr. Pettis, sharing the conceptions of the Monroe Doctrine held by our statesmen of that period wished to forestall such mediation. His principal motive, however, was a real desire to promote peace for in no other way could his unofficial and audacious mediation be explained. Being on close terms with the Minister of State of Bolivia the subject of mediation was frankly discussed and the following memorandum drawn up, in June, 1879. *Senate Docs.* 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 4.

All under the special condition not to take any decision or compromise without the knowledge and approval of the Peruvian Government.

³⁹ *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 608.

The authorities of Chili, civil and military, to withdraw from and disoccupy all territory that they have taken possession of upon and since the 14th day of February, 1879, leaving all things in the condition and state they were in previous to the 14th day of said month.

Then, if arbitration is agreed upon, the arbitrators to hear, determine, and decide all matters in dispute between Bolivia and Chile and Peru, and establish the divisionary line between Bolivia and Chili, Bolivia claiming the boundary line affixed by the Chilian constitution, taking with consideration the damages caused by the act of 14th February, and the subsequent aggressions claimed by Bolivia, as well as the expenses of the war.

That reference may be made to the President of the United States of America as sole arbitrator, or to the judges of the Supreme Court of the United States of America, or to the ministers of the United States of America in Peru, Bolivia, and Chili, a decision by a majority of the arbitrators sitting, to be valid and binding upon the parties, to be approved in its execution and perpetuity by the President of the United States.

NO. 38. PROTEST OF CONSULAR CORPS ON SHELLING OF IQUIQUE

July 17, 1879

INTRODUCTION AND SOURCE.—Peruvian efforts at securing warships in Europe were frustrated, but their naval leaders hoped to equalize the difference in fleets by using torpedoes, then comparatively new in warfare. The commander of the Chilean fleet, Admiral Williams Rebolledo, asserted that if they were used against his ships he would bombard cities in retaliation. On July 16 he shelled Iquique and the consular corps of which the American consul J. W. Merriam was dean held a meeting and issued the protest below. Mr. Merriam was satisfied that no torpedoes had been used. He also objected to the shelling of unfortified quarters and especially those of the foreign section. It is not probable that torpedoes were then used although some were secured in the United States, smuggled across Panama and used later. Not much came of them and the ex-Confederate officer in charge of them stated that he was handicapped in their use by the jealousy of Peruvian naval officers.

While Mr. Merriam, whose wife was a Peruvian, was undoubtedly affected by pro-Peruvian sympathies, there were sufficient grounds for the consular action. The protest shows how strong was the foreign element in Tarapacá. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Document 79, pp. 252-253.

Iquique, July 17, 1879.

Sir: We have not forgotten the distinct declarations that your honor was pleased to make on the 6th of April to the delegates of the consular corps, and, in view of the confidence which those declarations merited from us, we could never have imagined that events would happen in direct contradiction to the guarantees spontaneously offered by your honor.

Contrary to all our expectations, last night, for the space of two hours, for motives that we fail to understand, and without prior warning as required by international law, the vessels under your honor's command threw a considerable number of cannon-shots into this town with disastrous effects, various defenseless people, old men, women, and children, and several neutral persons having been killed, and some private property belonging to foreigners, of whom, as your honor must be aware, the majority of the inhabitants of this town is composed, destroyed.

The protection of the lives and interests of our respective countrymen being encharged to us, in fulfillment of the duties of our trust, at a special meeting we have unanimously resolved to protest, as in due form we hereby do protest, against the bombardment of last night as unjustifiable and contrary to the most sacred and current practices of international law, and throw the responsibility of the consequences to which this act may lead upon your honor.

We remain, etc.,

J. W. Merriam,
*Consul of the U. S. of America, and senior member
of the Consular Corps.*

Marcos F. Aquirre,
Ecuadorian Consul.
Judallecio Gomez,
Consul of the Argentine Republic.

Herman J. Schmidt,
*Consul of the Austria-Hungarian Monarchy and
Acting Consul of the German Empire.*

M. Jewell,
Acting Vice-Consul of Her Britannic Majesty.

Hugo Rossi,
Consular Agent for Italy.

To the Commander-in-Chief of the Chilean fleet in this harbor.

39. REPLY OF ADMIRAL REBOLLEDO TO PROTEST OF CONSULS

July 17, 1879

SOURCE.—*Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 253.

ON BOARD OF THE IRON-CLAD BLANCO ENCALADA,
Iquique, July 17, 1879.

Mr. Consul: I have had the honor of receiving the protest-note of the consular corps resident in this port, and shall lay same before my government by the first opportunity.

In the meantime I consider it right to assure your honor that I do not deny the fact of my having offered the consular corps that, in the event of the circumstances of war obliging me to bombard this place, I would, with due anticipation, notify the consular corps of same, for the personal safety and interests of their countrymen. And I possess the satisfaction, Mr. Consul, of having acted strictly in accordance with my promise, in spite of the hostile acts of the military forces on shore, practiced against the corvette *Esmeralda*, during the first naval engagement, and the attempted destruction of one of the ships of the fleet under my command, by means of a torpedo on the night of the 8th instant.

The repetition, however, last night of the latter act against my flagship, authorized me, in fact, to destroy the town; but, even then, and solely in obedience to sentiments of humanity, I gave orders that the shots should be fired high, as your honor must have observed.

I deplore the loss of lives of defenseless persons which your honor assures me has occurred; but your honor cannot be ignorant of the fact that the successful exit of the torpedo would have destroyed the lives of numberless persons also defenseless against this treacherous arm of warfare.

Up to the present, the war in which we are engaged has been, for our part, carried on with entire good faith; your honor can assure your countrymen of this, and add that it will be continued in the same way, so long as the enemy do not employ arms of the above kind.

Finally, I must beg to remind your honor that this town, to-day the headquarters of the army, with its fortifications and defenses, had become a military stronghold, and its inhabitants are therefore subject to all the fortunes of war, for which reason I am sincerely

sorry that neutral citizens, and very particularly your honor and the other members of the consular corps, over which you so worthily preside, still remain in the town.

With sentiments, &c.,

J. Williams Rebolledo

*To the Consul of the United States of North America,
and senior member of the Foreign Consular Corps in Iquique.*

NO. 40. EDITORIALS IN VALPARAISO PRESS ON VISIT OF MINISTER N. D. PETTIS

August 14 and 15, 1879

INTRODUCTION AND SOURCE.—With the declaration of war against Peru the war fever in Chile rose to white heat. No government could have lived a week that did not favor the retention of Atacama and the capture and annexation of Tarapacá. The following editorials are representative of public opinion in Valparaiso. To the student of this question it is hard to see how Secretaries Evarts and Blaine could ever have believed that Chile would make peace without territorial indemnities. The first is from *El Mercurio* August 14, 1879, and the second from *La Patria* August 15, 1879, quoted from *Senate Executive Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 265-267.

INTERVENTION OF THE YANKEE GOVERNMENT

We learned yesterday, from a trustworthy source, that the United States plenipotentiary had passed a note to our government intimating, in terms somewhat accentuated, the necessity of putting an end to the conflict in which we are involved.

If this be true, it would be the right time to tell the great North American Republic that she has completely forgotten her own doctrines and practices, intervening in matters which merely and exclusively concern the three belligerents.

If the mentioned intervention is amicably offered, we must thank them for it, but we must also refuse it as [if] imperative.

If, on the contrary, it signifies an incidental threat, as it is said to be, the repulse should be immediate and clear. No matter in which of the two positions we may place ourselves, the result can only be one and the same. And how could it be otherwise when we are in a position which can only allow a solution by the victory of one or the other of the two contestants? By what other road could we attain peace?

Or does the North American Government believe that we could,

to please it, or out of fear of its threats, return to Bolivia the territory that by the irresistible force of rights and events has formed again an integral portion of the republic? Impossible!

The Chilian flag that waves there in testimony of national possession and of protection to the powerful interests rooted in that soil cannot be hauled down until the Peru-Bolivian Army succeed in defeating ours. In this way only could it retire; in any other way, never! never!

And with regard to Peru, how would that peace which the Yankee Government offers us stand? Should we leave without revenge the martyrdom of the heroes of the *Esmeralda*, and without chastising the treacherous attacks in consequence of which more than four hundred Chilians sigh in painful bondage?

To step back without obtaining at least a partial reparation for so many evils and insults to our country would be an indelible stain for Chili; and Chili does not consent, and will never consent while it has a spark of life, to a single spot on its shield.

The Government of the Great Republic knows us little. It judges, perhaps, our dignity by the number of inhabitants, by the scarcity of our national income, by our relative backwardness in comparison with her. But if this is so, she is greatly mistaken, for though poor and backward and lacking the great resources for defense that the great powers possess, we have always shown, since the day of our emancipation, a patriotism able to face all contingencies, a courage in proportion to the intense esteem of our honor.

It is hard to believe that the North American Government that has always looked with the most absolute indifference on the contests of the republics of this continent should to-day want to enforce itself as mediator in a contest perhaps the most justified (it is so understood on our part) of any that have stained with blood the New World. Since when so much humanitarian zeal, after having looked quietly upon the slaughter in all the South American countries except Chili?

Yesterday only did not Mistery Yankees see Paraguay perish after a heroical combat against three adversaries, of which the least strong was a thousand times superior to herself? Well! Why then, did they not use their friendly influence or their coercive threat? When the Spanish squadron bombarded Valparaiso the Great Republic had in the bay the formidable "Monadnok," nevertheless, Admiral Mendez Nuñez proceeded as if he were the absolute

master of the seas. Minister Seward would not even listen, in compliment to Neutrality, to the complaints of the Chilian representative, who, in an unhappy moment, believed that the so-celebrated Monroe Doctrine extended so far as to protect a feeble country, a victim of a powerful European nation.

Now, then, if the Monroe Doctrine could not cross the Isthmus of Panama whilst a poor American country was being chastised by one that had been its master in the bygone times of colonization, why, then, shall we allow to-day, to the principle of intervention, a principle only used against the weak, so violent an interpretation, founded, it may be, on a humanitarian basis or upon financial interests?

If Chili, as the United States Government cannot deny, is a self-governing country, constituted after the same manner as the other free countries are, it becomes clear that any act of a foreign power, no matter which it be, tending to lessen its liberty, is an unjustifiable act, an insult not to be tolerated. Rights are equal to the whole of the human family. The small and modest Switzerland is as much master of her freedom to punish those that depreciate her as powerful England is. Belgium and Holland are not more or less on this point than France and Germany. If Chili were only like the Republic of Andorra or San Marino, then could the United States or any other European power justify such an intervention as that of which we are speaking. But, fortunately, we are not so unfortunate as to owe to the pity or the contempt of the world the liberty which we enjoy.

We do not, for a single moment, desire to imagine that the government looks upon this matter in another light than we do. Nevertheless it is prudent to advise it that the moment it should show the least weakness the entire country would hold it to a strict account. National honor is not to be trifled with, and it would be precisely the national honor which would be forfeited by acceding to the suggestions of any nation interested in imposing upon us its will.

Chili does not require tutors; she is old enough to be able to know how to govern herself. If the chief of the state does not believe so, he must from to-day believe the contrary, under the penalty of discovering that a Chilian governor must think as the people he governs think.

A MEDIATION AS ABSURD AS DANGEROUS

Conjointly with our colleague of this port, we received yesterday the advice that there had been presented to our government, in an imperative manner, a proposed forced mediation, tendered by the great Republic of the United States.

We will ingenuously say the truth; we gave no credit to the news, reserving to ourselves to qualify it as being of the worst character, and, above all, of more evil consequences than many of the false news which every day some people, with wicked designs rather than a spirit of intervention, spread about the streets.

Even to-day, and notwithstanding the honor it has merited from "El Mercurio" by finding place in its columns, we insist upon denying not only its existence but also its verasimilitude. And, in truth, foundation is not lacking in proof of our systematic incredulity.

It is an established fact, as it is opportunely put forth by El Mercurio, that the benevolent intention of the Northern Confederation and the purposes of the Monroe doctrine have never passed the sphere of beautiful theories in favor of any of the Latin-race countries of the South American continent. The Monroe doctrine was invented solely for Saxons and in favor of Saxons.

To the real and indisputable examples set forth in aid of this thesis by El Mercurio we can properly add other examples, if possible, to those already mentioned.

What has the Monroe doctrine done for Cuba? Has Spain not prosecuted with tenacity her implacable war under the nose of the United States? Has the case of the *Virginius* been forgotten, from on board of which Spain took out, by means of the Tornado, citizens under the protection of the starry flag, shooting them afterwards, notwithstanding the protest of the commander of the vessel?

What did the United States do for Mexico when the Imperial Eagle was making a prey of the heroic and intrepid Puebla? What did it do for Texas? What has it done for the Republics of Central America in their conflicts with Germany and other European Governments? To fold her arms, and if not co-operating, allowing, at least, the realization of the known maxim *la force prime le droit*, or, let us call it, the right of the strong is the only one possible right.

And, besides, by what privileged reason should the United States

be the one who should constitute itself the executor of a forced mediation?

We have not ignored the steps taken by Peru in search of a mediating power and of a mediation. We have followed her step by step in her shameful travels through courts and palaces in Europe, from Holland to Germany, and from Paris to London, receiving everywhere as sole answer to her exigencies silence and disdain.

And what she has failed to accomplish until now by diplomacy, always ready for negotiations with those great powers which has been refused to be taken in hand, and that in a collective manner, by the whole of Europe, and this in an amicable and conciliatory manner should now come as a *ukase*, unprecedented in the history of America and of the world, by the country who was the cradle of Lincoln and Washington?

It is obvious, and the more it is examined the greater becomes the surprise, and greater still the absurdity of the matter which we are treating, obliged by the necessity of evading its doleful propagation in the public spirit and the discouragement which would be the inevitable consequence, if in reality such mediation had existed, or should ever exist.

And how could it be attempted?

Upon this point we could answer nothing that would not be feeble and pale paraphrase of the opinions and patriotic and eloquent judgment given yesterday in the columns of *El Mercurio*. For this reason we limit ourselves to repeat with him to-day and with the entire country to-morrow: "*The Chilean flag that waves in the Bolivian territory cannot be hauled down until the Peru-Bolivian army succeed in defeating ours. In this way only could it retire; in any other way, never! never!!*"

One thing only we may add to that patriotic oath, and it is, that even the army defeated, Chili, resuscitating the heroic traditions of Paraguay, would perish as a people before suffering the humiliation and ignominy of an obligatory treaty to which a struggle and a combat had not preceded.

Let us not ramble.

The news that occupy us, though its origin is official, is not only official, but is also absurd. How could Señor Pinto, son of the warrior of Ayacucho and Junin, a near-relative of Generals Buin and Yungay, deceive himself so much as to the disposition of the

country he governs, and to whom he owes glory, fortune having refused him wealth and prosperity, that he should, even for a moment, admit a hearing of such a mediation. How could Señores Varas and Santa María, that fought in one time for Chili and in the name of Chili the colossal English power in the celebrated Whitehead question, hear without rebelling sentiments, and without in that moment abdicating their portfolios, the humiliating proposition of the Washington emissary?

We repeat for the thousandth and last time, there is not, there cannot be, there will not exist the mediation of which we speak. If we should be mistaken, if such news became a fact, we say it ingenuously, we believe that the country, rising like a single man, would make a solemn "auto de fé" of the treaty of mediation, and God grant they stop there and do not incur the temptation of feeding the flames with the authors of the idea. For if it is true that people forgive many misakes after glory has been obtained—for example, in France Henry IV, Louiv XIV, and Napoleon—it is equally true that they are implacable with those that lead them foolishly or carelessly to degradation and shame.

NO. 41. CHILEAN REPLY TO THE PROPOSALS OF MINISTER PETTIS

August, 1879

INTRODUCTION AND SOURCE.—The effective troops of Bolivia had consisted of a picked bodyguard of President Hilaron Daza's adherents, which he had taken the precaution to arm with repeating rifles, leaving other companies armed with old muskets. The war was at first so popular in Bolivia that within two months a division of 7,000 men was equipped largely by public donation, and was on its way to the coast. Foolishly enough with President Daza in command it went to Tacna instead of to Calama.

Likewise President Mariano Prado of Peru led in person his forces then assembling in Tacna and Arica. Judge Pettis took the occasion of a deferred trip to the coast for his health to leave as soon as he secured the memorandum of Bolivia's peace bases.⁴⁰ The allies placed at his disposal the use of a boat over Lake Titicaca and the railroad and telegraph line to Mollendo. He cabled the United States Minister at Lima, I. P. Christiancy, to meet him in Mollendo. The latter was not able to come and Pettis came on to Lima where he easily secured the approval of Sr. Manuel Irigoyen, the Peruvian Minister of Foreign Affairs, and Vice-president LaPuente who was acting in the absence of President Prado. He then went to Arica and found Presidents Daza and Prado at Tacna and both were agreeable to the bases

⁴⁰ See *supra* Doc. No. 37, for text of the memorandum.

of his memorandum. Knowing that it would take two months to consult Washington by letter and fearing to cable, he resolved to go to Chile.

On the same boat was Horace Fisher and each reported to Secretary Evarts that the other was indiscreet and inept for diplomacy. When the boat stopped at Antofagasta Fisher went ashore and Pettis, not wishing to be in his company, remained aboard. Fisher lunched with the American manager of a nitrate concern where he met José Antonio Santa María, Chilean war manager and later president. Fisher made the most of his official interview with President Hayes and Secretary Evarts, and expressed the opinion that Hayes was very favorable to Chile and that the people of the United States hoped Chile would win the war.

Mr. Pettis secured an audience with the Chilean ministry in Santiago and terms were discussed as embodied in an unofficial memorandum which he was asked to draw up.⁴¹ The idea was well received, Pettis returned to his post and the Chilean Ministry agreed to give an answer to Mr. Osborn after it should consult Sr. Santa María who was asked by telegraph to come to Santiago.

The Chilean ministry seemed favorable to the proposals. About all the announced objectives of the war were tentatively offered by the allies, but it was held that Peru deserved a thorough punishment which is the substance of the following reply. From *Gonzalo Búlneš, Guerra del Pacífico*, Vol. I, pp. 425, 426.

With regard to the questions with Peru, although the proposed bases correspond in most part with the aims of the war, the disloyal conduct of Peru or its government in preparing for war at the same time that it was giving Chile signs of friendly and pacific sentiment, and presenting itself as a mediator when it was joined by a secret alliance to Bolivia, our enemy at that time, gives just grounds to the country and to the Government not to be satisfied with a solution of our present questions by means of arbitration, and to exact securities that in the future Peru will not celebrate pacts like that of February 1873 which it has kept secret during six years, waiting without doubt an occasion to be our aggressor with advantage—a pact which really did not oblige her to make war. This is necessary if we do not wish to run the serious danger of remaining subject to a permanent menace to our exterior security and of being always prepared to repel it.

⁴¹ *Senate Documents*, 47th Congress, 1st Session, Vol. IV, No. 79, p. 15. For text of bases see *supra* Doc. No. 37.

No. 42. REPLY OF SECRETARY EVARTS TO SIR EDWARD
THORNTON ON INTERVENTION IN THE WAR
OF THE PACIFIC

September 24, 1879

INTRODUCTION AND SOURCE.—In the period of this war European commercial interests in South America greatly exceeded those of the United States. The British minister at Lima had formally tendered the good offices of his country to avert war, and various diplomats had let it be known that their respective governments were willing to mediate. After the great destruction of property in the bombardment of cities built up largely by European capital, and when the blockade began to threaten the supply and price of guano, European governments were disposed to intervene forcibly, if necessary, to stop the war. However, they would not take that step without the cooperation, or at least consent, of the United States.

Accordingly on June 14, Lord Salisbury sent a telegram to Sir Edward Thornton which was taken personally to Secretary Evarts by Mr. Henry Howard of the British legation. The message stated that Germany and Great Britain regretted the war which was being waged largely at the cost of neutrals and desired to know if the United States would join those powers to offer mediation for the purpose of concluding the war. Secretary Evarts replied that his government was ready to assist in the restoration of peace when its offices could be usefully proffered, but that it did not favor a premature effort, nor an effort in combination with other powers which could carry an impression of coercion.⁴² After the news of Mr. Pettis' and Mr. Fisher's journeys reached Sir Edward Thornton he wrote on September 8 that he had received word from South America that the United States was ready to use its good offices to bring about peace and wished to know if it were true that such steps would be taken by the United States. The note which follows is in reply. From *House Executive Documents*, 46th Congress, 3d Session, Doc. 1. Pt. 1, p. 490.

Department of State
Washington, September 24, 1879.

Sir: I have the honor to acknowledge the receipt of your note to this Department, dated the 8th instant, in which you refer to previous correspondence in reference to the inquiry you made in June last, by direction of Marquis Salisbury, as to whether the Government of the United States would be disposed to join Great Britain and Germany in offering their mediation with a view to concluding the war between Chili and Peru. You also mention the reply of this government to that proposal expressing its readiness to assist in the restoration of peace between the belligerents whenever its good offices might be usefully proffered, but not favoring

⁴² *United States Foreign Relations*, 1880, pp. 487-488.

a premature effort nor an effort in combination with other neutral powers which would carry the impression of dictation or coercion in disparagement of belligerent rights.

You say, furthermore, that you have recently observed statements in American newspapers to the effect that this government has instructed its ministers at Lima and Santiago de Chili to tender the good offices of the United States to secure an honorable settlement of the difficulties between the belligerent governments, whenever they shall intimate that such friendly services will be accepted with that end in view, and you express the hope that I will think myself justified in acquainting you, for the information of Her Majesty's Government, as to whether the newspaper statements to which you refer are founded on fact, and whether the hope may be entertained that the steps thus reported to have been taken by the Government of the United States may lead to the conclusion of peace between the republics of Chili and Peru.

In reply, I have to say that I have delayed answering your note above mentioned, which was brought to my notice on my return to Washington on the 16th instant, until I could examine the correspondence with the several ministers to Peru, Chili, and Bolivia, which had taken place during my absence.

The statements in the newspapers to which you refer have not specifically attracted my attention. I am able to say, however, that our ministers have given and are giving attention to the wishes of this government to proffer its good offices in favor of peace at the earliest indication of the readiness of the belligerents to consider such good offices acceptable.

This purpose this government will not fail to pursue; and with good hopes that the events of the war may soon dispose all the belligerents to desire its honorable conclusion. It would be premature to anticipate an immediate opportunity for a definite proposal of peaceful methods through the good offices of this government which would gain the concurrent consent of the three belligerents.

It will give me pleasure early to acquaint you, for the information of your government, with any decisive indications of a disposition to make a peaceful solution of the unhappy controversy through the interposed friendship of this government.

I have, etc.,

Wm. M. Evarts

No. 43. LETTER OF JOSE SANTA MARIA ON TARAPACA
POLICY

November 20, 1879

INTRODUCTION AND SOURCE.—Coincident with the failure of the Pettis efforts, Dr. Pablo Arosmena of Colombia was made to understand privately that mediation was not wanted, hence he did not officially tender the offices of his country, but soon returned home.⁴³ Colonel Fisher remained in Chile a year and his motives were not even known to Secretary Evarts to whom he sent voluntary and voluminous reports which were very accurate. He was pro-Chilean and did various small services such as securing from the United States War Department copies of our rules of warfare and creating good feeling for Chile in the United States.

The result of these peace moves was to demonstrate that there would be no peace without a serious trial at arms. Both sides prepared feverishly for a hard struggle. Peru endeavored to secure ships of war since the *Huascar* was the only unit in her navy at all comparable to the *Cochrane* and *Blanco Encalada*. For five months Admiral Grau maneuvered the *Huascar* about the coast attacking Tocopilla, Antofagasta, Taltal, and Caldera, capturing a transport and blocking the campaign against Tarapacá. The Chilean fleet was overhauled and a new admiral named with the result that the *Huascar* was captured near Angamos in a battle on October 8, in which Grau and all senior officers were killed. The crew tried to sink the ship by opening the valves, but it was saved by a boarding crew and later used against Arica and Callao.

Now master of the sea, Chile landed an expedition, November 2, at Pisagua in Tarapacá and fought a hard battle with the allies at San Francisco (or Dolores) near Iquique, defeating them decisively. The armies were about equal in numbers, but that of Chile had superior cavalry and had above all the latest Krupp artillery manned by German officers experienced in the Franco-Prussian war. The allies were allowed to withdraw, however, and some of the troops of Bolivia returned directly home while others retreated with the Peruvian army which fought a brilliant rear guard action and retired to Tacna.

With Tarapacá in their possession the question of its disposition had to be discussed. The Chilean Minister, José Santa María, stated the question well in the following letter to General Sotomayor, November 20, the day he received the news of the victory at San Francisco. The first part was written before the news came and the rest later. The reference to Argentina is about the old Patagonia trouble. Very fortunately for Chile the mediation of the United States was acceptable to Argentina and the question was left to arbitration. From Gonzalo Búlnes', *Guerra del Pacífico*, Vol. I, p. 729.

November 20. We can say that Tarapacá is ours, but the hard thing, my dear Rafael, is to know what we should do next, if victories do not help to define the situation. Shall we continue fight-

⁴³ See *supra* No. 37.

ing? Shall we halt in Tarapacá? Shall we fortify ourselves there and there await Peru to destroy her if she presents herself again to combat us? Shall we go to Lima, by that means to compel the government to come to peace terms? And so I could continue with a series of questions which could not be answered.

And this situation can become more difficult if the Argentine negotiations should take a disagreeable turn. Since a spirit of conquest is attributed to us, since it is believed that we are bent on annihilating Peru and dividing up the Lord's garments, not only shall we not have sympathies of the Americas, but Argentina will also fear for herself, she will suspect that we, powerful and proud, will try to take Patagonia from her without ceremony or preliminaries. This is an error, but overexcited people do not escape easily from their errors. I think and think about our subsequent action, (*conducta posterior*), but I am very much afraid that opinion in this country is misled to the extremity of embarrassing the prudent action of the government.

I am breaking the seal of this letter because in this moment I am overcome with the enthusiasm of the news which we have just received [of the battle of Dolores]. We possess the *Pilcomayo* and are owners of Tarapacá. Now after the diversion of the triumph we must think seriously on what is incumbent on us to do. I consider Peru as vanquished (*rendido*) and the alliance ended; now enters the hardest phase of the question, listening to the exaggerations of patriotism and the benefits which triumph suggests. Shall we go to Lima? Think about it a moment: there are two ways to take; one is to remain in Tarapacá awaiting there for them to seek us to dislodge us, and the second, to march rapidly upon Lima to impose the terms of the conqueror.

NO. 44. ABDICATION DECREE OF PRESIDENT PRADO OF PERU

December 18, 1879

INTRODUCTION AND SOURCE.—After the battle of San Francisco President Prado turned over the command to Admiral Lizardo Montero and left Arica for Callao. President Daza, who had started south before the battle invented a report of an attack on Tacna and returned. Some of his officers rebuked him and went on, arriving in time to take part in the terrible battle. Daza's act was attributed to Chilean influence, and desertion by Bolivia was feared in Lima. When President Prado arrived home he was not blamed for the defeats, and tried to reorganize the ministry and to continue the war. The atmosphere was tense in Lima. Something radical was

expected. President Prado offered the ministry of finance to Nicolás de Piérola, leader of the opposition to the government, but it was refused in a remarkable letter that sounds like a bid for a dictatorship. Since few blamed President Prado all were surprised when he suddenly abdicated in the following decree. From Senate Documents, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 300.

*The Constitutional President of the Republic,
to the Nation, and to the Army:*

Fellow Citizens: The great interests of the country demand that I shall leave to-day for abroad, separating myself for a short time from you, at a time when considerations of a different order counsel my remaining among you. The motives which induce me to adopt this resolution are in reality very great and very powerful. Respect it, for a man who like myself serves his country with good will and complete self denial has a right to exact it.

Soldiers, if your arms suffered partial disaster in the first days of November, on the 27th of the same month they were crowned with glory in the province of Tarapacá. I am sure that under any circumstances you will imitate the example of your comrades in the south.

Peruvians, his excellency the senior vice-president of the republic remains intrusted with the executive power, in accordance with the law. I recommend him to you to aid him in his acts with your co-operation.

In taking leave of you, I give you the assurance that I shall in due time be with you again. Have faith in your fellow-citizen and friend,

Mariano I. Prado

Lima, December 18, 1879.

NO. 45. PROCLAMATION OF NICOLAS DE PIEROLA, DICTATOR
OF PERU

December 22, 1879

INTRODUCTION AND SOURCE.—With the abdication of President Prado the way was now open for Nicolás de Piérola who seemed to covet the presidency although the occasion was so inauspicious that there must have been much of patriotism intermixed with the ambition. He had been attorney for the large Dreyfus concern in Peru, had been Minister of Finance and after disagreeing with the former administration on the guano policy had resigned. He had revolted a year before the war started, seized the *Huascar* of the

Peruvian navy, and had taken part in a quixotic duel with two British ships.⁴⁴ He had ability and energy and probably no one else could have done more than he in the crisis. The trouble was that he represented the bitter opposition, politically and financially, to the Prado or civilist party. General Manuel La Coterá, who remained loyal to the civil party, was induced by high church officials to cease resistance and Piérola entered the palace. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 300, 301.

To the People and the Army:

Silent and sorrowful before the exigent demands of the people and the army, I resigned myself to circumstances during the days which followed the shameful flight of Prado and the advent of the superannuated General La Puerta, hoping that the army would decide at last to overcome the scruples of a misunderstood loyalty which stayed a part of it from acting according to its convictions, which are those of the nation, and desirous of avoiding any collision between brothers and the loss of a part of our forces.

The headlong and impatient ambition of General La Coterá, after brutally stifling the unanimous voice of the people of Lima and Callao, provoked a conflict yesterday, employing the forces under his command to disarm the patriots of the army whose only aim was the salvation of the country and the defeat of the foreign foe.

In Lima but a few moments sufficed to show how irresistible was the patriotic desire of the people and the army, and it would have sufficed for me to remain a few hours more in the capital to end all resistance.

Yielding, nevertheless, to the motives I have already expressed, I preferred to retire to this city, which has received me without any manner of resistance, to the end of making impossible all chance of strife between brethren and of favoring the tranquil adhesion of those remaining in Lima to the political *régime* proclaimed months ago by the whole nation.

Thus all conflict is made utterly inexcusable, and throws in its true light the responsibility for its evils upon its sole authors.

That portion of the army still under their orders in Lima, will not, I am confident, permit this responsibility to become a fact, to the immeasurable injury of all. The hour of national reparation has struck. In the series of disasters which have marked the history of our foreign war, Peru has no part. In shaking off, as she

⁴⁴ See *British and Foreign State Papers* for 1876 and 1877, pp. 744-767. Also *supra*, Doc. 30.

now does, the old rule, she raises the most eloquent protests against that deplorable history, and presents herself worthy of her name and her destinies before the other peoples of the earth.

For us there is, as there can only be, but one aspiration: a swift and full triumph over the foreign enemy. To achieve this work, we are now all brothers, without the memory even of our past divisions, and drawn one to another by the indissoluble tie of love for Peru.

Whatever may retard for an instant the complete national unity is an act of treason to our country. Unity is the one condition of the power and triumph of Peru. To that end has ever consecrated and now consecrates his most zealous efforts, your fellow citizen and comrade at arms,

N. de Piérola

Callao, *December 22, 1879.*

No. 46. CIRCULAR OF GOVERNMENT OF PIEROLA

December 23, 1879

INTRODUCTION AND SOURCE.—Immediately upon Piérola's entering the palace, circulars were sent to foreign representatives announcing the formation of a new government. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 303.

NICHOLAS DE PIEROLA, *Supreme Chief of the Republic of Peru*. GREAT AND GOOD FRIEND: The unanimous acclaim of the people, the army, and the navy of the country has just invested me with the supreme magistracy of Peru, with omnipotent authority, which I shall exercise, keeping in view the regeneration which our institutions demand, but above all and before all the triumph of the arms of the republic in the war in which it is engaged with Chili.

In announcing to my investiture with the supreme power, I have the very especial satisfaction of expressing the sentiments of loyal friendship in which I abound toward the and the person of , for whose prosperity and glory I offer the most sincere and fervent prayers.

Given in the palace of Lima on the twenty-third day of the month of December, in the year of our Lord 1879.

L.S.

NICHOLAS DE PIEROLA

The secretary of state for the department of foreign affairs and worship.

Pedro José Calderón

No. 47. PLAN OF THE CREDIT INDUSTRIEL AND THE GOYENECHÉ-ROSAS CONTRACT

January 7, 1880

INTRODUCTION AND SOURCE.—Coincident with and interwoven with the military and political crisis in Peru was a clash of huge financial interests. Agents of the Prado government, Francisco Rosas and Marciano Goyeneche, signed a contract with a company representing a large block of European interests organized in Paris under the name of the "Crédit Industriel."

Holders of mortgages on Peruvian guano and owners of certificates for the dispossessed nitrate mines of Tarapacá formed most of the constituency of this company. These bondholders lived in various countries of Europe and formed national organizations such as, "Committee of Peruvian bondholders in France." They existed in England, France, Italy and Germany in about the order of importance named. The largest single claim was held by Dreyfus and Co., who subscribed to the plan of the Crédit Industriel and also backed Piérola and his plan of settlement with them.

The financial ramifications of this history are so extensive and complicated that they could be treated adequately only in the field of research in economics and finance. However the political development of the question cannot be separated from the scent of fertilizers. Nitrate and guano interests were indirectly and directly responsible factors not only in the instigation of the war, but in the course which it followed and the peace that was made. This is a serious assertion in spite of the age in which this war occurred when international finance lacked much of the morality which it now possesses. Evidence sustaining the charge is seen all through this study but attention is here called to three witnesses.

Charles R. Flint, international financier and munition buyer, who was acting consul for both Chile and Peru when war was declared and who was active in promoting the Peruvian monopoly company, as its agent in the United States, said: "The result of this organization was detrimental to nitrate producers and merchants of Chile, a fact which led up to a war of conquest by which Chile annexed all of the Peruvian nitrate territory."⁴⁵ His statement is not partial for he later had a similar world monopoly nearly organized under the flag of Chile, who rejected it when aroused by the Knox ultimatum in the Alsop case. Another important witness is James G. Blaine who during the hearings of the Congressional investigation of our attempts to make peace said that it was not a war between Chile and Peru but between British subjects and Peru.⁴⁶ Allowance can be made for the suspicion of English motives of that epoch which he shared and for the fact that he was angered by the investigation. But he testified that English financiers tried to buy war vessels in the United States for Chile in anticipation of the war. He cited as proof of his statement above the fact that the nitrate creditors and the government of Chile "divided the spoils fifty, fifty."⁴⁷ The third important witness is the Chilean Minister, Augusto Matte, whose testimony is seen in *infra* Doc. 49.

⁴⁵ Flint, Chas. R., *Memories of an Active Life*, pp. 66, 70, 72.

⁴⁶ *House Reports* 47th Congress, 1st Session, Vol. VI, p. 217.

⁴⁷ See text of Treaty of Ancón, Art. IV, *infra*, Doc. 82.

The interests represented in the Credit Industriel either believed that the nitrate industry would not be or should not be put under the Chilean flag or that if it were they could not be compensated for the Peruvian bonds and certificates they held, and sought the intervention of neutral powers, preferably the United States. Their program was stopped by the overthrow of the Pardo government by Piérola whose financial program gave primacy to Dreyfus in the fertilizer world. The Credit Industriel plan is given here chronologically although it was not presented to Secretary Evarts until later. From *Senate Documents*, 47th Congress, 1st Sess, Vol. IV, Doc. 79, pp. 450-452.

Programme for mediation between Peru and Chili

I

The neutrality of the guano and nitrate deposits, so as to avoid ill-feeling between the two nations, which would result from a surrender of the territory, and at the same time to guarantee to the creditors said deposits (pledged to them), against all future difficulties or competitions.

II

The working of the neutral deposits to be entrusted to an institution of credit, offering a financial basis of unquestionable standing and ability to assure public confidence in any engagement it shall undertake in regard to all the interests.

III

The Basis of the Transaction

The contract of the Credit Industriel, dated at Paris, January 7, 1880, so modified as to give satisfaction to every interest, allowing, namely:

First. *To Chili*.—The royalty claimed by her of £1 10s. per ton, or £450,000 per annum, which would permit a loan of £4,000,000 to be raised to pay a reasonable war indemnity.

Second. *To Peru*.—The amount which she has declared indispensable for her internal budget, £450,000 per annum.

Third. *To the bondholders*.—The balance, which represents 3 1/3 per cent. on the principal of the standing debt.

IV

The funding of the nitrate debt in order to permit the redemption of the guano Peruvian debt, and to increase, if necessary, the royalties appropriated to Peru and Chili.

V

To lay a cable from Panama to Peru (Callao), development of commercial relations with the last-named country, assist in the restoration of her credit. There could be for the benefits of said cable a subsidy to be derived from the nitrate debt.

We can assert that this programme, should it be adopted by the United States, would be endorsed by the great powers whose subjects are the creditors of Peru, namely France, Belgium, and Holland.

STATEMENT

First

The guano, including manipulation and mixing of same, will yearly produce on a sale of 300,000 tons

I. Freight and expenses, estimated at £4 per ton	£1,200
From which is to be deducted—	
II. Peruvian royalty, £1 10s.	450
III. Chilean royalty, £1 10s.	450

IV. Remuneration to the Credit Industriel of 20 cent. on the net proceeds	
Leaving to be distributed every year to the bondholders, viz, 3 1/3 per cent.	

Second

The expropriated nitrate produces, per annum, on a sale of 200,000 tons, at £14 per ton

I. Manufacturing and transporting to the place of shipment, at, say, £6 per ton	£1,200
From which is to be deducted,	
II. Freight and expenses, say, £4 per ton	800

Net

The nitrate debt amounts to £4,000,000, and requires 8 per cent. interest and 2 per cent. sinking fund, viz, £400,000 per annum. This amount could be reduced, namely, make the interest 5 per cent. and 1 per cent. sinking fund, and to refund it in "bons de delegation," which, being negotiable in Europe, would secure to their holders more than they would lose by the change	240,000
Leaving a clear balance of	560,000
To be appropriated to—	
The redemption of Peruvian bonds	300,000
Chilian royalty	100,000
Peruvian royalty	100,000
Subsidy to the cable	60,000
	560,000

The foregoing will therefore permit regularly to be appropriated each year:

I. *To Chili*, £550,000, that is to say, an amount more than sufficient to raise a loan of £4,000,000 to £5,000,000.

II. *To Peru*, £550,000, that is to say, more than the treasury has ever regularly received.

III. *To the bondholders*, £1,200,000. This is an income less than the one originally promised, £2,600,000; but it will be perfectly sure, as it will be protected against all chances by the neutrality secured.

It is sufficient to read the foregoing programme and the figures attached to it to acknowledge:

A. That said arrangement is acceptable to both nations, since it will permit them to settle peace without any sacrifice to their national pride, and securing to each one a large pecuniary compensation.

B. That said arrangement is acceptable to the creditors of Peru, since it gives to them a security which they have never had, in return for abandonment of a portion of their interests.

C. That said arrangement would be acceptable to any mediator, since it does not impose a sacrifice of any interests, and it permits

the restoration of the credit of two nations, whose ruin will cause trouble in the commercial world.

A. Guillaume,
*President of the Peruvian Bondholders
 French Committee.*

NO. 48. CIRCULAR TO FINANCIAL AGENTS OF PERU IN EUROPE

January 27, 1880

INTRODUCTION AND SOURCE.—The plan of the Credit Industriel was practically to appoint an international receiver for Peru.

President Piérola attempted to save the nation from both bankruptcy and loss of territory. He settled all debts for internal improvements by transferring railroads and other government-owned property to the claim holders. He then attempted to realize cash payments on all guano then stored at government account in Europe and to devote the income to the purchase of war materials with which to retake the captured guano deposits and the nitrate region of Tarapacá.

The principal difficulty that he encountered was in securing warships. His guano credit was sufficiently good to purchase ships, but it was impossible to evade neutrality laws. In view of the very efficient diplomacy of the Chilean minister in London and Paris, Blest Gana, and the aid of Peruvian bondholders in Europe, Peru was unable to buy a single ship. Her army was still about equal in numbers to that of Chile, but it was a war in which by the circumstance of the long coast, a navy was the deciding factor. The British owned steamship lines carried munitions rather impartially to both belligerents and Peru tried unsuccessfully to break the naval power of Chile by the use of torpedoes smuggled into the country.

Piérola had cabled to Rosas and Goyeneche, agents of the Prado government, to make no contracts except *ad referendum*, but instead they signed in Paris the Credit Industriel agreement, January 7. On the same date, Piérola issued a decree disposing of all stored guano to Dreyfus. The two agents, wealthy men of the former guano régime, soon had their estates in Peru confiscated by the same decree that annulled their contract. The minister of finance who authorized the contract also suffered the same penalty and was imprisoned besides, although the decree was made retroactive. The Credit Industriel backers however did not accept Piérola's program as final and worked on their plan, sending agents to see Secretary Evarts. They were prepared for any misfortune that might befall Piérola.

Thus while soldiers were called to Lima for the defense of the country against what they supposed was a struggle of national and racial antipathies and while soldiers from Chile embarked for the north to punish what they thought was a treacherous foe, three giant, economic groups were also clashing. One group was of those bondholders who worked to put the nitrate wealth under a different flag; another group represented those favored by

the civilian government of Prado and represented in the Credit Industriel; the third group personified in Piérola represented Dreyfus.

On January 27 a long circular was issued to financial agents of Peru in Europe setting forth Piérola's position. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 339-344.

To the Financial Agent of Peru in Europe:

Sir: In a former letter I spoke to you of an exposition I would make about the motives that have influenced the government in its first steps with reference to the finances, and particularly to the foreign credit of Peru; and by especial request of his excellency, the supreme chief of the republic, I now comply with this duty.

Peru is at present undergoing a very difficult trial, from which she will undoubtedly reap two great benefits, her regeneration at home and proving to the world her elements of power and strength; although her difficulties and complications are now very great, she must nevertheless conquer them to attain this object.

However painful it may be, yet we must inevitably look back on the last ten years in order to understand better the difficulties and complications in which we are now placed.

Exaggerations of prosperity, against which proved useless all the efforts of the present President of the republic, then minister of finance in 1872, brought about the initiation of the new foreign loan of the following year, which occasioned his separation from the government, and was the starting point of the indefensible financial situation through which the republic has ever since had to struggle.

That loan, most imprudent in itself, since it was to absorb in its own service the greater part of the income of the nation, had largely commenced at the inauguration of the new government of that year. That government not only did not annul it, as it could and ought to have done, but the most unfortunate manner in which it was carried out in Europe, emitting its obligations at truly ruinous rates, decided the disaster. And this fact, together with the series of economical and political errors of those four years, brought on the suspension of payments abroad, and misery and ruin at home.

The succeeding government did not remedy the evil. Following the same path which had been condemned by the whole country, protesting against it even under arms on several occasions, it only succeeded in widening the breach that had already been opened.

A terrible blow was dealt to the flourishing saltpetre industry, under pretext of forming a new financial resource, thereby ruining the manufactures and the public treasury, depriving the former of their nitrate, and creating for the latter an enormous debt of nearly 20,000,000 of soles.

Our principal income, the guano, became, by virtue of the contracts celebrated since 1874, reduced to an incredibly small amount. Coin disappeared entirely from our market, being replaced by the greatest of economical calamities, the paper money of forced currency. The internal consolidated debt increased immensely, the floating debt appeared; and even the servants of the state were frequently without pay.

Such a sad situation, together with other grave symptoms of administrative and political disorder, encouraged Chili, covetous of her neighbor's riches, to appropriate the Bolivian coast, convinced that the powerlessness to which Peru had been reduced would prevent her interfering in such a culpable enterprise.

* * * * *

For, as I have already said, in consequence of the war, our guano deposits are in power of the enemy.

Consequently, and, even laying aside the great national interest in the maintenance of our dignity and right, it was necessary to decide between two steps: either to obtain from the guano stored in Europe the requisite funds to complete our armament, in order to recover by force the guano deposits, which will permanently furnish the payment of the external debt, or to yield to our creditors the comparatively small amount of the value of the stored guano, but thereby placing ourselves in the impossibility of speedily recovering the property which we destine to the payment of our debt.

Between these two extremes it was not difficult to decide. On the 7th of January last we signed a contract by which we deduct from the value of the guano stored in Europe merely the necessary amount to make up our armament, leaving the rest for an extraordinary amortization of the debt (Art. II of the supreme decree of the 7th of January, 1880).

The official acts to which I refer have been so planned that not even the exceptional situation of the war can damage the existing agreements with our creditors, but rather improve them.

By the terms of the compact, which took place in London, on the 7th of June, 1876, the fulfillment of which has, with reason,

been demanded by the holders of our bonds, Peru was to appropriate from the value of the exported guano sold in Europe, the sum of £700,000 annually, leaving to the demands of the debt only the remainder of the yearly profits, which, however, in consequence of the mode of conducting the sale, have, up till now, been delusive. For this reason Peru will only take, and that for once alone, a portion of the value of the stock, renouncing the annual payments agreed upon, which would amount to a far higher sum.

With the object of obtaining from the guano sold in Europe sure funds for the war, and certain profit for the bondholders, it was needful to overturn the system employed till now in the exportation of guano; removing the causes which have rendered its value so profitless in the last few years.

Of these causes there were two: 1st. The ruinous competition between the house in possession of the guano formerly bought, "Dreyfus Brothers & Co.," and the present consignee, "Peruvian Guano Company Limited;" 2d, the insecure and variable profits according to the consignment and quality of the guano, instead of the sale of the entire stock at a fixed and uniform price.

Allowing the existence of the two mentioned houses in possession simultaneously of the market, and both of them with stock for sale, it is not difficult to see that the only means of doing away with the competition which reduced the products of the guano so low as to render it of no value to us, or to our creditors, was to divide the market between the two. The second cause of the evil could only be remedied by finding a purchaser of all the stock at a fixed and uniform price.

Now, no sensible person will deny that to obtain this result on a practical basis and with the speed which the situation demands, would give rise to disputes between the said houses. There was no other road then open, but to make an arrangement granting them all they claimed, in order to obtain:

1st. The much desired separation of the markets and consequent suppression of the competition.

2d. The attainment of the largest fixed and certain price possible for the European stock; allowing full liberty to discuss quietly and through the respective tribunals the rights claimed by the two houses. This has been obtained in the arrangement made with Dreyfus Bros. & Co., on the 7th of January, and in the additional

contract of the same date which was first proposed to the "Peruvian Guano Company Limited."

By any other means the Government would only have given rise to misunderstandings which would have been prejudicial to itself and to its creditors, with no better result than that of rendering the situation worse than it was before.

As the Government cannot now dispose of any guano but that which is stored in Europe, it would be delusive and prejudicial to make any contract relative to the exportation of any. . . .

* * * * *

We had then to limit ourselves to the guano in possession of our agents, reserving till after the campaign that which is now in the hands of our enemy.

Everything that we could do has therefore been done with regard to the guano (considering our situation), in favor of the interests of our creditors, which are identical with those of the national treasury. The delusive income of its sales in Europe have been enormously increased and converted into a certain and fixed sum. The service of the debt agreed upon in the London contract of 1876, at 3 per cent. per annum, we have carried to 4 per cent., and with guarantees and securities of unfailing compliance. We have given in part payment properties of real value, such as all our railroads. And, finally, even in spite of the war, we have renounced the annual income latterly agreed upon with our creditors, leaving them the value of even the guano stored in Europe, receiving, once for all, only a portion of it; and that with the object of helping us to recover the deposits of guano which are now in the hands of the enemy.

The nitrate was, doubtless, another article in the hands of the government; and although it has not been considered in the arrangement for the payment of our foreign debt, we should not have hesitated for one moment in throwing it in, to serve our creditors better.

There were, however, two insurmountable obstacles to this: First, that the government had taken possession of the saltpeter mines from the proprietors, giving them in exchange documents which have never been canceled, nor can they ever be paid for with the other revenues of the country; in reality these mines do not belong to us, and it would have been equivalent to disposing of property which belongs only to the nitrate manufacturers.

The second impediment is obvious. The department of Tarapacá being occupied by the Chilians, any transaction relative to saltpeter would be purely chimerical, before turning them out. Even if we had a right to dispose of the nitrate, which is not ours, the opportunity has not yet arrived to place it at the disposal of our creditors. Among these there have been some who consider that Peru should yield to them the export of guano, and even of nitrate, in order that they may pay themselves, allowing so much per ton to Peru. The convenience of this step has been encouraged by the idea that as neutrals the bondholders would be allowed to export these articles, in spite of the actual possession of the enemy, and shielded by their respective flags. This would amount to the establishment of a sort of foreign protectorate over our territory, when we ourselves are fully able and determined to drive the enemy out, without need of foreign aid. No foreign government would lend their aid to such foolish pretensions; nor would Peru and its present government ever consent to such a thing.

Laying that aside, and supposing that we had again obtained possession of our territory, no sensible government could possibly accept a proposition to allow the creditors to come and pay themselves.

Without a complete abdication of national rights and functions, it is not possible to transfer the administration of national resources, before first proving that the government is incapable of acting for itself. It would be like the affairs of a bankrupt being arranged by his creditors, and Peru, fortunately, does not yet find herself in that position.

Besides which, such a proceeding would not be a security even to the bondholders. So numerous as they are, belonging to all social conditions, and not even able to agree or act in unison, what would be the practical signification of giving up to them the management of the guano and nitrate? Would their interests be better guaranteed by the person or persons who would be appointed to represent them, than by a people of a government, who, although they may suffer disturbances, will always exist, and are not liable to the mistakes and errors of private individuals?

* * * * *

It is not the interest of the large number of bondholders that produces the excitement of a few, and their attempts to take upon themselves the management of the guano and nitrate at all hazards.

It is a gross speculation, fomented by the intrigues of Chili to their own advantage, but to the great detriment of Peru and her creditors; this fact they cannot ignore. All this is so anomalous and rotten that it is not worth the trouble of investigation; and if I touch upon it at all, it is merely because, last year this pretension made its appearance in a proposition presented by a very small number of Peruvian bondholders, and in one or two foreign newspapers.

The confusion in this affair has reached to such an extent, that there are even some who conceive the possibility of an understanding between the Peruvian bondholders and the enemy with whom we are at war.

We will do the greater portion of our bondholders the honor of believing that it has been far from their intention to share with the enemy the riches of Peru, for it is certain that that would be the only interest that would lead the latter to this international scandal. The respective governments of these could not help looking upon this as an offense against justice and the common interests of States. Finally, for us as for any other nation in a similar case, there is but one conclusion: The immediate canceling of all debts to such as should commence by disavowing the fact which existed between us in order to consummate one with our enemy to our detriment.

If such a thing should happen, however, it will only prove a gross injustice, of which the perpetrators would reap but little benefit, because Peru has the firm determination, and has the means wherewith to drive the Chilians out of the territory, which it is only occupying temporarily.

Not even during this occupation would such an attempt be profitable, because as the government has already declared in an international dispatch, the very ships used to export the nitrate and the guano abstracted from Peru would be only taking undue advantage of their flags, if neutral, which, for this very reason, would not protect them from being seized by us or in our name.

In conclusion, the official acts to which this dispatch refers, as will be very easily seen by the slightest examination, have consulted as much as possible our foreign credit, and with it, the interests of our foreign creditors. Any other steps will only be prejudicial to them as well as to the republic.

The new government which Peru has chosen, interpreting the

national will, even in the midst of the preoccupations of the war, has, nevertheless, devoted its first attention to the service of our creditors. Seconded by them, as Peru has a right to expect, our government will have put an end to the damages they have had to suffer, much to the regret of the whole nation, which will thus be vindicated by practical and undeniable facts from the charges against her, owing to the blunders of her former rulers.

I trust that you will make such use of this communication as to make known its contents to our bondholders, as it is the particular desire of his excellency the chief of state, as well as mine, that they should be thoroughly convinced that Peru and her government are proceeding with loyalty, and feel the greatest interest in their rights, which will no doubt be proved by the terms of this exposition, and the painful frankness with which I have stated the declarations it contains relative to the former political period.

May God preserve you.

Manuel A. Barinaga

NO. 49. LETTER OF AGUSTO MATTE, MINISTER OF PUBLIC
WORKS IN CHILE, ON FINANCIAL POLICY OF TARAPACA

February 6, 1880

INTRODUCTION AND SOURCE.—It will be seen from the following document and by other facts that the development of the war and the efforts at securing peace were closely related to the interests of the bondholders. These were mostly citizens of European countries, many of whom had laid the foundation of their wealth in Peru as pioneer dealers in guano. At this time Osborn, United States Minister to Santiago, reported that agents of the bondholders had been in Chile for five months working for the annexation of Tarapacá.⁴⁸

Peruvian writers generally blame the annexation program of Chile solely to the statesmen of the period and assert that the petition of the bondholders was merely a cloak to screen or excuse the taking of the coveted "Naboth's Vineyard." Whether the bondholders were effect or cause, those financiers and Chilean expansionists made a powerful combination that successfully balked the efforts of many chancellories to make peace until all the guano and nitrate deposits were annexed and their retention assured. From Gonzalo Búlness, *Guerra del Pacífico*, Vol. II, p. 107.

Recently I have sent a note to Mr. Proctor advising him that in view of the uniformity of opinion which exists among the creditors of Peru the government of Chile was willing to permit the exporta-

⁴⁸ *Senate Execution Documents*, 47th Congress, 1st Session, Vol. IV, Dec. 79, p. 105.

tion of guano, which as you know is mortgaged to them, under a Chilean duty of 30 chelines a ton. The creditors have recently held a meeting approving of this and clamoring, (*piden a grito herido*) for the annexing of Tarapacá by Chile. And the truth is, friend, that these gentlemen, the creditors, have been a powerful lever in Europe to prevent the Peruvians from securing war elements and to create for us a beneficent atmosphere in the opinion of those peoples, etc.

But what bothers me is the question of the nitrate. By dispatches and other means of communication I see that the nitrate works of Tarapacá, either for fear of the reprisals of Peru, or because they haven't yet gotten together the necessary elements for exploiting on a vast scale, be it an attempt by resistance to lower the duty or not I don't know, but I say, I see that they have paralyzed the exportation.

Be that as it may, I believe that so far as we are concerned, they can't nor should not impose other considerations on us than those of providing us with all the funds for carrying on the war. We cannot wrap ourselves up in spider webs when we have in our hands a purpose to which is united the fate of Chile. Therefore, if anyone or anything gets in our road we ought to override it with cold firmness. The war may last who knows how long and it is consequently necessary to levy on the enemy's territory as far as possible.

NO. 50. ORDER OF GENERAL J. A. VILLAGRAN FOR SALE OF PERUVIAN GUANO

February 23, 1880

INTRODUCTION AND SOURCE.—After the capture of Iquique and the occupation of Tarapacá, the city was placed under the military governorship of General Patrick Lynch, a British soldier of fortune, who had taken service in the Chilean navy. He facilitated guano development by fortifying the headlands, protected deposits, and gave the city a thoroughgoing administration.

On February 23 General Villigran, commander of the department, issued the following military order authorizing shipments of guano from the occupied region on condition that twenty shillings a ton be paid to the Chilean government. In connection with this policy raids were made to destroy the loading facilities of Peruvian deposits on the islands of the central and northern coasts of Peru. This prevented competition with shipments made under the Chilean régime. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 106.

José A. Villagran, General-in-Chief of the Army of Reserve, &c.

The province of Tarapacá being occupied by the Chilian army, and in virtue of the powers conferred upon me by the Supreme Government, I decree :

That as the foreign holders of Peruvian bonds have solicited due permission from the Supreme Government to ship guano from the Peruvian deposits occupied by the arms of the republic, and there being no impediment to granting this permission, I decree :

ARTICLE 1. The foreign holders of Peruvian bonds are hereby allowed to extract guano from the Peruvian deposits occupied by the arms of the republic, under the following conditions :

1st. The bondholders shall name a committee or responsible business house to direct the operations.

2d. The Chilian Government reserves the power of intervention and of naming one or more functionaries to inspect, and if it be thought opportune, to direct the operations of extraction and shipment.

3d. The functionaries referred to in the foregoing paragraph shall dispatch the loaded ships to Valparaiso, whence they cannot sail to a foreign port until the sum of 30s. per ton of guano on board has been paid into the custom-house.

4th. This payment shall be made in bills of exchange upon London, in favor of the Chilian Government and to its satisfaction; this payment shall be lowered to 20s. per ton, in case that the price of guano falls below £6 per ton.

ART. 2. The papers of the ships sent off shall be made out to the order of the firm of Messrs. Baring Bros. & Co., or to some other equally respectable firm, in case consignment is not arranged with them.

Until a contract of consignment be signed, the ships' papers shall be made out in favor of the Chilian minister and plenipotentiary in Europe, and of James Croyle, esq., and Sir Charles Russell.

ART. 3. The consignee or consignees of the guano shall proceed to sell the cargoes, and, after deducting the sums expended, be it in the obtaining of this permission, be it in payment of the debts referred to in article 1, or be it to repay the shipping expenses, or in other similar objects, the remainder shall be divided between the foreign holders of Peruvian bonds, in whose favor the guano deposits have been mortgaged.

PROVISIONAL ARTICLE. Until the committee, mentioned in article

1, be named, Mr. John Proctor is authorized to arrange provisionally the mode of shipment, he being empowered to use for that purpose the material in possession of the government.

Let this be published, noted, and communicated.

J. A. Villagran

NO. 51. SECRETARY EVARTS' INSTRUCTIONS ON MEDIATION

March 9, 1880

INTRODUCTION AND SOURCE.—By this date the War of the Pacific and the international repercussion resulting from it caused Secretary Evarts to take steps to safeguard the policy against European intervention in America. The complexity of the situation with regard to foreign bond and certificate holders, and the threatened curtailment of the supply of fertilizer for European countries, together with the destruction of so much foreign property and some lives, caused interpellations of at least two European ministries and talks of a coalition of powers to intervene in South America.

In order that his ministers to the belligerent countries might be prepared to forestall any such move that might be in conflict with the policy of the United States in South America Secretary Evarts sent them the following instructions which were virtually discretionary orders to offer mediation. From *Senate Executive Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 106, 107.

(Confidential)

Department of State,
Washington, March 9, 1880.

SIR: The indications which reach this government from trustworthy sources, and among others from the legation at Lima, point to uneasiness on the part of the governments of Great Britain, France, and Germany, with respect to the duration and tendency of the existing South American war, and to the exertion of considerable pressure by them on the contestants, and especially on Peru, to induce a speedy termination of the struggle.

It is not thought that this movement looks to a removal of the projected intervention in settlement of the quarrel, which was in contemplation last year. It is rather more probable that the almost continuous successes of Chile hitherto, and the distracted internal condition of her principal opponent, may induce the European powers to use effective arguments to bring about a practical surrender on the part of Peru and Bolivia. On the other hand, it is possible that the pressure in favor of a settlement, of mutual advantage to the commerce of those countries with the three States at war,

may be exerted at Santiago as well as at Lima and La Paz, and that such arguments may be supported by suggestion of intervention if not accepted.

If, however, any renewal of the idea of European joint intervention should take shape, it is conceived that its application would encounter resistance on the part of all three of the belligerent governments, and that in such a contingency they would more naturally turn to the United States for counsel and arbitration.

Chili, as well as Peru and Bolivia, is already aware of the disposition of this government with regard to mediation, and its willingness to act as peacemaker if assured by all the parties to the struggle that its peaceable intervention would be acceptable and unhampered by any conditions in disparagement of belligerent rights. It is, therefore, at the present time unnecessary to again instruct you on this point, further than to observe that should the pressure of foreign governments upon the combatants tend to assume a coercive character, your attitude should be such as to facilitate a joint and friendly resort to the good offices of the United States. In such an event, requiring prompt action, perhaps, before the instructions of this government could be asked and received, the Department would place much reliance upon your own good judgment.

An instruction identical with the present is sent by to-day's mail to Mr. Christiancy, at Lima, and Mr. Pettis, at La Paz, with whom you are counseled to continue the friendly conferences and consultations by letter which have heretofore been so beneficial to the conduct of the intimately related affairs of your respective legations.

I am, &c.,

Wm. M. Evarts

Same to United States minister, Peru.

No. 52. STATEMENT OF JOSE SANTA MARIA, MINISTER OF
FOREIGN AFFAIRS OF CHILE, ON PROPOSED PEACE
PACT WITH BOLIVIA

May 8, 1880

INTRODUCTION AND SOURCE.—Now that Chile possessed all of the Bolivian littoral and the Peruvian department of Tarapacá observers supposed that the war would soon end. It was presumed that Chile, having attained the objectives of the war, would be willing to make terms of peace and that Peru would accept. As can now be seen there was no good stopping place for the retention of the territory already occupied, for the successful

exploitation of guano without competition from the Peruvian islands, or for the pacification of Bolivia. No half way measures would suffice in the program of expansion on which Chile found herself launched.

While revolutions in Bolivia and Peru were overthrowing the governments of those countries, both military and diplomatic campaigns were being prepared in Chile. By the end of February an army, transported from Iquique and Pisagua and disembarked at Ilo, began to advance into Tacna where the allies were making a stand, while the Chilean fleet blockaded Arica.

By the terms⁴⁹ of May of the previous year Chile's proposal to Bolivia to exchange allies did not offer very definite territory in compensation. Now with the success of Chilean arms practically certain, the terms were summarized in the following note sent by the minister of Foreign Affairs, Santa María, to the Chilean minister Eusabio Lillo. From Gonzalo Búlness, *Guerra Del Pacífico*, Vol. II, pp. 281-282.

May 8th. Santa María to Lillo. The principal bases from which we should not deviate are these:

1. That Antofagasta is ours.⁵⁰
2. That all the territory to the Loa is also, as a necessity created by the war which Bolivia made against us.
3. That the eastern boundaries shall be fixed later, in order not to have another point that might disturb the peace to be signed.
4. That in order to maintain the Bolivian autonomy, Arica, Tacna and Moquegua be annexed to Bolivia.

It was well understood that this has its difficulty (*bemoles, flats*), but it is necessary to insist on it, as a means of giving Bolivia a frontier and placing her between Peru and us. Here is for me the hard part of the question, because Peru will forever resist such extensive cession and because Bolivia can consider herself insecure and insist that we become a protector. This demand once accepted would put us in the difficult situation of always having to keep an army ready, and thus to prepare or become used to militarism, which would turn out to be the real profession in Chile.

We have recently thought much on this point, but I see a difficulty in giving you concrete instructions, since we don't know which physiognomy the political parties in Bolivia will present nor what men may be interested in its destiny.⁵¹ But you don't need instructions. You know the thoughts of the government, for in our conversations I haven't concealed from you the fact that I

⁴⁹ See supra Doc. 36 for terms of May 22.

⁵⁰ See Documents 31 and 36 supra. The name "Antofagasta" was soon given by Chile to all the former Bolivian coast.

⁵¹ The Spanish words translated here, *its destiny*, are *su suerte*, which might also mean, *their own fortune*.

look upon peace with Bolivia as a necessity to arrive at peace with Peru.

No. 53. TELEGRAM OF SECRETARY EVARTS URGING MEDIATION

July 29, 1880

INTRODUCTION AND SOURCE.—On July 29 Secretary Evarts, aware of steps taken by the representatives of the powers telegraphed, to urge mediation on the belligerents, sending identical instructions to Mr. Osborn in Santiago, Mr. Christiancy in Lima and to Mr. Charles Adams who had taken the place of Mr. Pettis in LaPaz. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Dec. 79, p. 116.

Washington, *July 29, 1880.*

Osborn, *Minister, Santiago, Chili:*

Press upon Chilean Government our desire to aid in restoring peace on honorable terms between nations to which we are sincerely and equally friendly. A like instruction is sent to-day to Lima.

EVARTS,
Secretary.

No. 54. DISPATCH OF MR. CHRISTIANCY DESCRIBING PEACE ATTEMPTS

September 12, 1880

INTRODUCTION AND SOURCE.—On May 13 before the decisive battle near Tacna Mr. Osborn wrote to Mr. Christiancy expressing the opinion that should Chile defeat the allies the time might be propitious for peace tentatives. In that contingency he would suggest that a conference might be arranged for on board a United States warship. He wrote on May 20 to Secretary Evarts and stated that while he did not think European powers would bring pressure to bear he had had precautionary correspondence with his colleague in Lima. Furthermore, Chile was well-informed of the readiness of the United States to tender its good offices when peace might be possible.

On May 26 the allies were defeated near Tacna, and on June 7 the Morro of Arica was taken by Chilean forces in a combined land and naval assault. Following these victories the ministers of Italy, Great Britain, and France interviewed President Piérola and received the impression that Peru would treat on the basis of the loss of Tarapacá. This was communicated to their colleagues in Santiago and on July 26 Count Sanminiatiello of the Italian legation and Baron d'Avril representing France called on President Pinto. Sr. Pinto stated that Chile would treat for peace on the basis of receiving Atacama from Bolivia and Tarapacá from Peru, and would give Bolivia free use of certain ports. As there was telegraphic communication only to Arica the results were delayed in reaching Lima. Meanwhile events had transpired which caused the European diplomats in Lima to advise their colleagues in

Santiago that it would be better not to talk of terms as a prerequisite to a parley, but rather to try to have plenipotentiaries named.

On August 6 Mr. Osborn, who now had received the message from Evarts of the 29th formally offered the mediation of the United States. After consulting his cabinet on August 9 Pinto accepted reluctantly and secretly the mediation. Osborn telegraphed to Christiancy the 17th to sound the Peruvian government, but the latter did not get the message, for he was then on his way to Santiago. A letter from Pinto to the Chilean admiral, Riveros, dated July 25 stating that he would be favorable toward peace if some neutral power would offer the way was intercepted by Peruvians and came into Christiancy's hands. Being solicitous that his country be the mediator and having considerable latitude under the elastic instructions from Secretary Evarts of March 9 he took the steps described in the following despatch. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 388.

Legation of the United States,

Lima, Peru, September 12, 1880. (Received October 22.)

SIR: Referring to the postscript to my dispatch No. 190, and having this day returned from Santiago, I write this confidential note to explain the nature of the evidence I had received which induced me to go to Santiago.

I had been shown an intercepted letter written by the President of Chili to the Chilean admiral at Callao, in which he says in substance that the government is desirous of peace and wishes to make some proposition to Peru, and thinks it would be best to make it through some third power. This letter was dated July 25.

I waited about eight days after seeing this letter, expecting to hear from Mr. Osborn, but received nothing, and fearing that some other power might be selected and that the United States might lose its proper prestige, I suggested to Captain Gillis, the senior officer of our squadron, that, as he had three vessels here whose business it was to cruise along the coasts of the belligerents, it might conduce to the public interest if he could send one south as far as Valparaiso, taking me along and bringing me back. He sent the Wachusett, and I went along and have just returned. Five days after I had left Mr. Osborn's letter of July 31 was received here by my clerk, and on September 9 his letter, of August 12 and August 20, informing me of the provisional acceptance by Chili of our mediation, were received here in my absence, which I have just opened.

As Mr. Osborn has kept you informed of his action and that of the Chilean Government in reference to our mediation, so far as

it appears from the letters above referred to, I need not here go over the same ground.

But I will say that if I could have known the contents of those letters here before I went I should not probably have gone at all, and yet I am now satisfied that it was well I did go, as it enabled Mr. Osborn and myself to concert the proper mode of corresponding with Mr. Adams at La Paz and with the several governments and of hastening an opening of negotiations under the mediation of the United States.

For further particulars I refer you to my despatch No. 191. I ask that the present letter may not go on the regular files of the department, but that it may be treated as entirely confidential.

I have, &c.,

I. P. Christiancy

No. 55. REPORT OF THE CONFERENCE OF THE LACKAWANNA

October 22, 25, and 27, 1880

INTRODUCTION AND SOURCE.—As the war spirit was high in Chile and as the ministry had virtually promised to push the expedition on to Lima the arrival of Minister Christiancy was embarrassing. President Pinto was of the opinion that even the capture of Callao and Lima would not insure peace and cited history to show that Peru could resist from the fastnesses of the Andes. However, the administration faced with an election the following spring, was politic. On September 11 congress interpellated the ministry, on the question of foreign intervention, which temporized by replying that there had been some extra official inquiries.

Not only was the attempt of Secretary Evarts at mediation predestined to failure by the desire of the victory-intoxicated war party in Chile to annihilate the Peruvian nation, but his instructions were not understood in the same light by his three ministers intrusted with carrying them out. Mr. Adams understood his instructions to mean more than mediation, in fact forced arbitration, similar to that proposed by Mr. Gladstone. When he conveyed Secretary Evarts' message to the Bolivian chancellor, Sr. Carrero, the latter stated that since it was practically certain that Chile would hold out for Tarapacá and Peru would not cede it, he wished to know if the United States contemplated mediation or forced arbitration. Mr. Adams stated that he did not presume that Secretary Evarts intended his representatives to be mere spectators at a conference, the opinions of whose representatives were already well known.

Furthermore, both Minister Adams and Minister Christiancy presumed that active military campaigns would cease during the conference while Mr. Osborn, the senior minister, seemed to see nothing unconformable to international practice in the vigorous prosecution of the war by Chile during the conference.

A conference was arranged to take place in October on board the *U. S. S.*

Lackawanna off Arica. The delegates from Peru attended with much reluctance owing to a sense of injured pride because of the devastating expeditions in the productive valleys north of Lima.

In Chile where few men wished to be associated with pacifists in that victorious moment it was difficult to secure delegates. Two of them wrote that they saw no advantage in attempting peace parleys. A third, Eusebio Lillo, not only had no faith in the conference, but carried instructions to treat separately with the Bolivian delegates, which he tried to do in holding several interviews. The following document contains the essential parts of the official report of the mediators. *Senate Documents*, 47th Cong., 1st Sess., Vol. IV, Doc. 79, pp. 406-418.

PROTOCOL NO. 1.

On board of the North American corvette *Lackawanna*, in the Bay of Arica, on the twenty-second day of October, of the year one thousand eight hundred and eighty, the plenipotentiaries having met together, as follows:

For the Republic of Bolivia, his excellency Señor Mariano Baptista.

For the Republic of Chili, their excellencies Señores Eulogio Altamirano, Eusebio Lillo, and Colonel Don José Francisco Vergara, secretary of state in the department of war and the navy.

For the Republic of Peru, their excellencies Señores Antonio Arenas and Aurelio García y García.

In presence of their excellencies the representatives of the Republic of the United States of North America, Mr. Thomas A. Osborn, accredited near the Government of Chili; Mr. Isaac P. Christianity, accredited near the Government of Peru, and General Charles Adams, accredited near the Government of Bolivia.

* * * * *

His excellency Mr. Osborn then said that the representatives of the United States desired that the sessions of this conference should be opened with as little ceremony as may be compatible with the gravity of the occasion, and regard it as useless at this moment to enter into a consideration of the question as to the origin of the mediation proposed by the United States, or the priority of its suggestion; that it is very gratifying to record that the conference is an accomplished fact, as is attested to-day by the assembling here of the honorable members thereof; and it is hoped that it will enter upon its deliberations with an earnest purpose to bring about the high object for which it has been convened; that it is unnecessary to give assurances that the government and people of the United

States feel a profound interest in the welfare of the three nations engaged in the present war; nor could it be otherwise, since the United States inaugurated republican government in America, and are, therefore, in a measure responsible for its existence here; that, having been the first to recognize the independence of these republics, they have watched with a careful eye, from that day till now, their efforts to keep pace with an advancing civilization, and have rejoiced in their progress and prosperity; that they feel that republican institutions are to-day on trial before the world, and that in . . . a happy exit (success) thereof all our nations here represented are equally interested; that it is but natural, therefore, that they should deeply deplore the existence of the present state of war, and should anxiously desire its termination; that it is this feeling which has inspired the present attitude of the United States, and it is the sincere hope of its government that ere this conference shall adjourn, an honorable and a lasting peace may be brought about; that the plenipotentiaries of the three republics are doubtless aware of the exact position occupied by the American representatives, yet it may not be superfluous to state that they do not propose to take any part whatever in the discussion of the questions which may come before the conference; that the bases upon which peace is to be reached are questions for the exclusive consideration of the plenipotentiaries; but that nevertheless they are ready and willing to assist the negotiators with their friendly co-operation whenever the same may seem desirable. He closed, saying: "We beg you, gentlemen, we implore you, to labor earnestly to bring about a peace, and, in the name of our government, we hope that your efforts may be crowned with success."

* * * * *

Mr. Osborn then declared the sessions of the conference open.

His excellency Mr. Altamirano said that, in his own name and that of his colleagues, he hastened to comply with the charge intrusted to him by his government, manifesting that the noble and disinterested efforts made by the most worthy representatives of the new American Union to put an end to the sacrifices of the war had awakened the gratitude of the government and people of Chili; and that, whatever might be the result of the conferences, and even although they should not result in the bringing about of peace, Chili could never ignore the magnitude of the service rendered; that he took pleasure in recognizing the exactness of the observa-

tion of Mr. Osborn, when in justifying the interest manifested by the great nation of the north in her development and prosperity, he recalled the fact that she had been the first to recognize the independence of Chili, adding that the proceedings of to-day evidenced that the same noble policy continued exercising its beneficent influence upon these republics. Touching the grave question of the moment, he stated that circumstances rendered it an imperative duty to endeavor to bring about an immediate solution; that, seeking for the mode of procedure best calculated to secure this end, he had thought necessary to group together in a memorandum the propositions which, according to his instructions, should form the groundwork of the treaty, in order that their excellencies, the representatives of Peru and Bolivia, after duly considering them, might indicate whether the discussion could be opened upon those bases; since, proceeding otherwise, the risk would be incurred of wasting time unnecessarily, since, even were the earlier difficulties overcome, there would be no security that the last might not prove insuperable; that if this form of procedure were adopted, one copy of the memorandum referred to would be placed in the hands of his excellency Mr. Arenas, a second in the hands of his excellency Mr. Baptista, and a third copy delivered to the worthy president of the conference.

* * * * *

Before adjourning it was agreed that his excellency Mr. Arenas should indicate through his excellency Mr. Osborn a day for the second conference, so soon as he had studied the memorandum presented by his excellency Mr. Altamirano, and which it was agreed should be inserted in the present minutes, its tenor being as follows:

* * * * *

"First. Cession to Chili of such territory of Peru and Bolivia as extends to the south of the valley of Camarones and to the west of the line of the Andean Cordillera which separates Peru and Bolivia, as far as the valley of the Chacarilla, and to the west also of a line which, being prolonged from this point, would strike the Argentine frontier, passing through the center of Lake Ascotan.

"Second. Payment to Chili by Peru and Bolivia jointly of the sum of twenty millions of dollars, four millions whereof are to be paid in cash.

"Third. Return of the properties of which Chilian citizens in Peru and Bolivia have been despoiled.

"Fourth. Return of the transport Rimac.

"Fifth. Abrogation of the secret treaty made between Peru and Bolivia in the year 1873, leaving at the same time the steps taken to bring about a confederation between the two nations void and of no effect whatever.

"Sixth. Retention on the part of Chili of the territroy of Moquegua, Tacna, and Arica, occupied by Chilian forces, until the obligations to which the preceding conditions refer have been complied with.

"Seventh. An obligation on the part of Peru not to fortify the port of Arica when it shall be given up to her, nor at any time, and an undertaking that in future it shall be an exclusively commercial port."

* * * * *

Mr. Arenas said in regard to the conditions proposed by his excellency the plenipotentiary of Chili that they had produced upon him a painful impression, since they close the door upon any reasonable or tranquil discussion; that the first one, especially, is so insurmountable an obstacle in the way of pacific negotiation that it is equivalent to an intimation to proceed no farther; that Chili has obtained advantages in the present war, holding in military occupation in consequence thereof certain districts of Peruvian and Bolivian territory over which she had never claimed any jurisdiction, but having occupied them after various combats, she to-day believes herself transformed into the owner thereof, and that her military occupation is a title of dominion; that like doctrines certainly were sustained in other times and distant regions, but in Spanish America have not been invoked from the time of the independence down to the present time, having been considered incompatible with the tutelary bases of republican institutions; they lapsed beneath the powerful influence of the existing political system, and because they were highly dangerous for all South American republics.

Leaving these general considerations, which refer to the interests and tranquillity of the nations of this section of America, his excellency proceeded to examine the first of the conditions of peace presented by Chili, in its relation to Peru. The Republic of Peru, he said, by reason of its predominant ideas, the principles it pro-

fesses, and the feelings animating all classes of society, is incapable of consenting to the seizure of any portion of her territory, and still less of that which to-day constitutes the principal source of wealth. He was not unaware that nations, in the absence of a supreme judge who might settle their controversies, generally decide them upon the battle-field, the conqueror who has obtained the decisive victory (which is not the case in the present war) exacting that the party conquered, and without the means of continuing the struggle, shall yield to the demands which were the cause of hostilities; that in Peru these ideas are rooted in the public mind, being those professed and respected in republican America, and that he therefore believes, taking into consideration the present situation of the belligerents, a peace which was founded upon a cession of territory and a revival of the obsolete right of conquest would be an impossible peace; that even were the plenipotentiaries of Peru to accept and their government to ratify it—a supposition impossible to entertain—national sentiment would reject it and the continuation of the war be inevitable; that if the first condition be insisted upon, presenting it as indispensable in order to arrive at a settlement, all hope of peace must be relinquished, the efforts now being made become fruitless, with the prospect of new and disastrous hostilities before the belligerents; that, finally, the representatives of Peru deplore this result, not merely as patriots, but as Americans and as sincere friends of humanity. The fault cannot be imputed to them or to their government, since, if these negotiations fail, it will be through the influence of certain passions which have become inflamed so as to present as necessary the carrying on of a war of extermination, the consequences of which, if they be not measured to-day, will be suffered to-morrow.

* * * * *

[Report of speech of Mr. Altamirano] Chili, accepting the war as a painful necessity, threw herself into it without thinking of the sacrifices it imposed upon her, and in defending her rights and the honor of her flag, has sacrificed her dearest sons and spent her treasure without stint.

Such being the situation, her government has accepted with sincerity the idea of bringing the war to a close, always with the understanding that it be possible to attain a lasting peace, which shall compensate the sacrifices made, and permit Chili to return to labor, which is her existence. His government believes that to give these

conditions to a peace, it is indispensable to advance her line of frontier. She would thus endeavor partly to compensate the great sacrifices made by the country, and insure the peace of the future. This demand is, for the Government of Chili, for the country, and for the plenipotentiaries who speak in her name, at this moment, indeclinable, because it is just.

The regions extending to the south of Camarones owe their present development and their progress entirely to Chilian labor and Chilian capital. The desert had been fertilized by the sweat of her laboring men before it was watered by the blood of her heroes.

To withdraw the authority and the flag of Chili from Camarones would be a cowardly abandonment of thousands of her citizens, and a return, with aggravation, to the old and untenable situation.

* * * * *

I again repeat, Chili cannot withdraw her flag from that territory. The plenipotentiaries of Chili cannot sign any treaty so providing, or, should they sign it, their government and country would refuse their sanction.

* * * * *

[Señor Baptista]: We, the plenipotentiaries of Bolivia, find ourselves in perfect accord with the explicit declarations of his excellency Señor Arenas upon the fundamental point of the acquisition of territory, be it called advance, cession, compensation, or conquest, and we so think, inspired by the origin and development of the political life of our America. We obey that first impulse which fifty years ago launched her upon her well-marked and hitherto unchecked career. There was error, perhaps, in not strictly obeying, from the beginning, the direction which a true appreciation of the future of the continent imposed upon our statesmen. Children of a common parent, mingling in one common mode of life, nourished by the same blood, bound by the same religion, animated by that bulwark handed down from the mother country, and the only one she saved in her decadence, the municipality; divided at most in local sections, it seems that the expansion of public life among us ought to have been more in common, more reciprocal, and more united. . . . To endeavor to unite, successively and gradually, our different nationalities by the inducements of their mutual interests, to unify their economic and fiscal systems, to advance gradually by compacts that should draw us still more closely together, these were the aim and object of every truly

American thought and sentiment. So my government understood it, and with this object in view it endeavored to develop its national policy in the treaty of alliance which unites it with the people of Peru. . . .

Another movement, notable in both republics, that of confederation, has the same motives and tends to satisfy the same needs. For this, there are in Bolivia two parties, which for a moment differed upon the question of method, but finally agreed to reject all tumultuous action, all appeal to popular clamor, leaving to the public conscience, prudently ascertained, to the criterion of the people, tranquilly consulted, the study and the acceptance of the new project, the discussion of which should be far removed from the warlike atmosphere now surrounding us and transferred with studious calm to its proper region, that of peace, since by its very nature it cannot be an instrument of war, but rather a pledge of successive conciliations. This is not a digression, but a necessary antecedent to the considerations which follow. We are passing through a crisis which tends to turn us aside from these special precedents, and from that historical current which should mold and influence the traits peculiar to our American life. One great deviation, until now unique, was that of Paraguay, which has dazzled the political conscience of some statesmen. America may perhaps be unable to resist a second and more extensive example. . . [Arbitration]

* * * * *

His excellency Señor ALTAMIRANO observed that he found himself obliged to return to the discussion, since he could not permit the remarks of his excellency Señor BAPTISTA to pass unnoticed. In his eloquent discourse, and defending the policy of the government of his country, his excellency has presented the treaty, which, in 1873, united Bolivia and Peru with a common purpose, as a frank and honest manifestation of the earnest effort of Bolivia to bring more closely together these nations, now unfortunately at variance, and states that they should march together, recalling the fact that they made the campaign of independence side by side, and that the destiny awaiting them in the future is the same. His excellency Señor ALTAMIRANO added that he recognized the astonishing ability with which his excellency Señor BAPTISTA in his discourse upon the signification and reach of the treaty of 1873, had avoided the shoals; but his excellency will permit him, without qualifying that act of international policy, and without recalling the intent concealed

between lines of its text, to here enter protest and again repeat with his government that in that compact is to be found the justification of the attitude of Chili and her demands. For the rest, he joins with enthusiasm in the noble and elevated views of his excellency, the plenipotentiary of Bolivia, when he asks for these countries that union which is strength, and in the future will be the only source of their greatness and of the world's respect.

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[Señor García y García]. Nor is it possible for his excellency Señor GARCIA Y GARCIA, as he desires to place upon record, to pass over in silence on the reasons given by his excellency Señor ALTAMIRANO as a singular title for the dominion which Chili seeks to establish over the territory of Tarapacá. He remembers that his excellency the plenipotentiary of Chili maintained that the entire population of that province being Chilian, and the capital and labor employed in its establishments being likewise Chilian, therefore to them belongs possession of the territory.

While his excellency Señor GARCIA waves the consideration of the extension of "entire," as employed by his excellency Señor ALTAMIRANO, since, as the expression is totally at variance with the facts, he cannot believe that he would pretend to sustain it, nor that such was his intention, he cannot restrain the natural expression of his surprise at hearing reasoning so remarkable from one whose profound learning and elevated political stature render him a figure in American history he has ever contemplated with admiration. But his astonishment is greater upon reflecting that such views have been uttered in the presence of their excellencies, the three mediating ministers, whose great nation owes its immense development precisely to the foreign capital and labor which daily flow to its shores.

"With what hilarity," he exclaimed, "would be received in the political circles of Washington, the doctrine that should assert the right of Prince Bismarck to annex some of the newer Western States to the German Empire, the bulk of their population being German; or that Her Majesty Queen Victoria could, under like title, take possession of New York, a large portion of the inhabitants whereof are Irishmen!"

Having thus brought to mind the political principles briefly alluded to, and which are the only sure foundations of peace in America, having mentioned the historical fact to which allusion

has just been made, and to which other similar historical data are not added for the sake of brevity, he added that he applauded the rectitude of views in which his excellency Señor BAPTISTA abounded, nor could it be otherwise; but deeming it indispensable to give to those ideas a tangible form, as it were, that shall carry conviction of our good faith to those dispassionate observers who are contemplating these republics: that shall satisfy our common decorum, and silence the exaggerations that may arise in our respective countries, he proposes that all the points of these differences to which his excellency Señor BAPTISTA has alluded, and which shall be detailed in posterior discussions, be submitted to the arbitration without appeal of the government of the United States of America, called to that high position by their elevated morality, their position on the continent, and the spirit of concord manifested impartially in favor of all the belligerent nations here represented.

* * * * *

His excellency Señor LILLO said that he had not expected to have addressed this solemn conference, but the proposal of arbitration presented by his excellency Señor GARCIA Y GARCIA compelled him to forego his intention. He believed in his duty to fully indorse the rejection of that proposal already manifested by his honorable colleague, Señor VERGARA.

He understood and accepted arbitration when it was desired to avoid a war. This is the most worthy, the nobler course, harmonizing best with the principles of civilization and fraternity which should guide enlightened nations, and more especially those who by their antecedents and intimate relations form a single family; but arbitration has its opportune moment, and this, for the negotiations of peace which occupy us to-day, has unfortunately passed.

* * * * *

His excellency Mr. OSBORN then invited each one of their excellencies the plenipotentiaries of Peru to manifest, if so disposed, their ideas upon the subject. Their excellencies the plenipotentiaries of Peru declared, in reply, that as Chili insisted upon the maintaining of the first condition, and the arbitration proposed by them not having been accepted, it was impossible for them to go into an examination of the other conditions; that every door had been closed to them, and the continuation of the war rendered necessary; and that the responsibility of its consequences must not

rest upon Peru, who had indicated a decorous means of reaching peace.

His excellency Mr. OSBORN invited in turn their excellencies the plenipotentiaries of Bolivia to make known their ideas, and they stated that for their part they considered the situation to be clearly and sharply defined. There is one condition, the first presented by their excellencies the plenipotentiaries of Chili, as indeclinable, which the allies cannot accept. There is another, that of arbitration, suggested by their excellencies the plenipotentiaries of the allied republics and rejected by those of Chili; and there is finally a third, which has been proposed separately by the representatives of Bolivia, but which has not been taken into consideration. They consider, in view of this result, that the negotiation has reached its close, and regret that the political situation of the respective countries should not have permitted a common agreement to have been reached.

His excellency Mr. OSBORN declared that he and his colleagues profoundly lament that the conference should not have yielded the pacific and conciliatory results hoped from it, and believe that the same impression will be made upon the government and people of the United States when the fact is communicated to them that the friendly mediation of the United States has been fruitless.

He therefore declared the conference closed, in witness whereof they signed.

M. Baptista.
 Juan C. Carrillo.
 J. F. Vergara.
 E. Altamirano.
 Eus. Lillo.
 Antonio Arenas.
 Aurelio García y García.
 Thomas A. Osborn.
 I. P. Christianity.
 Charles Adams.

F. Avelino Aramayo,
Secretary of the Bolivian Legation.
 Domingo Gana,
Secretary of the Plenipotentiaries of Chili.
 M. N. Valcárcel,
Secretary of the Plenipotentiaries of Peru.
 Charles S. Rand,
Secretary and Interpreter of the Mediators.

No. 56. REPORT OF J. F. VERGARA ON THE CONFERENCE
OF THE LACKAWANNA

October 25, 1880

INTRODUCTION AND SOURCE.—Mr. Adams and Mr. Christiancy were disappointed at the turn which the *Lackawanna* conference took. They wanted Mr. Osborn to telegraph Secretary Evarts that Chile had refused the arbitration of the United States, but he wired simply, "Conference failed." Further effects of the difference of opinion of these ministers on our effort at mediation will be seen in the later correspondence with Secretary Evarts. It was expensive to cable to Washington as the only cable then was via Paris, but being urged by the Peruvian delegates Mr. Christiancy wired at their expense (\$66.00) a longer message than Osborn's, stating that Chile had refused arbitration. The reactions of the Chilean delegates are shown in extracts from their accounts of the conference. October 25 J. F. Vergara wrote in part to President Pinto the following. From Gonzalo Búlness, *Guerra del Pacífico*, Vol. II, pp. 504-506.

* * * * *

With this motive they pronounced many discourses and much was said of civilization, fraternity of these republics, similarity of origin, institutions, customs, religion, etc. They called out modern principles, American law, equity, and whatever arguments that come to the conquered in defense of a cause which they see hopeless. We held firm in our propositions, maintaining its justice and the necessity of consolidating the peace which we seek. The situation was a little bit painful for those of us who are not used to seeing these moral executions which also have their agonies, but pressing our hearts a little bit, remembering the causes of this war and thinking about the obligations which the interests of peace impose, all weakness disappeared and our spirits remained inflexible.

By the efforts of the Peruvians the tightness of their situation was clearly seen, because they accepted in silence and evidently lending their acquiescence to the proposition formulated by the Bolivians of leaving in our power all the territory occupied by our arms as long as the indemnity which we fixed remained unpaid. In order to get out of the grave conflict in which they found themselves they proposed the arbitration of the United States, a proposition which was seconded by Arenas and Carillo—Baptista remaining silent—but resolutely opposed by us.

* * * * *

Our relations with Baptista have had a certain character of in-

sinuation and personal deference which should not be overlooked. You should know now by the communications of Lillo, how this distinguished politician expresses himself on the pending question, and I am sure that he cherishes the idea of obtaining for his country compensation for the lost littoral, acquiring the natural and necessary appendix for his country. He does not deny that their littoral of the desert is an eccentric territory of Bolivia, that never could be populated nor governed, and is suited only to Chile, but he needs some cause or other to justify its separation from Peru to not clash so with sentiments of national honor and the duties of an ally.

For this reason I maintained in our private deliberations that we ought to present our propositions of changes of frontier as a common necessity to the three countries in order to conserve their equilibrium and avoid in the future complications, antagonism and conflicts like the present one. In order to attain the object the northern boundary of Chile would be Camarones and that of Bolivia the river Tambo. And thus that nation would be exchanging a piece of desert between the river Loa for another piece larger and even more valuable. And all of this at the cost of poor Peru? Yes, sir; all at the cost of Peru for she is the only one responsible for the war.

Nevertheless my two companions did not accept my mode of thinking because they considered that we would be exposing Chile to a shameful rebuff, and moreover since our instructions were not along that line I desisted in sustaining it and we followed exactly the terms that you know.

NO. 57. REPORT OF EULOGIO ALTAMIRANO ON THE
CONFERENCE OF THE LACKAWANNA

October 26, 1880

INTRODUCTION AND SOURCE.—The second delegate of Chile considered the conference a farce according to his report of it in a letter to an officer of the invading army. From Gonzalo Búlness, *Guerra del Pacífico*, Vol. II, p. 506.

I write you now secure that peace will not result. They refused *in limine* the cession of Tarapacá and naturally I declared at once that that was a condition *sine qua non*. I suppose that tomorrow the conferences will end unless the resistance of yesterday be a comedy and I don't believe it.

You know that you and I have always believed that Piérولا was not sufficiently ruined to make peace. In Santiago they thought the opposite, that he had swallowed that of the cession of Tarapacá, and they were deceived.

The conferences have been tranquil and they will be to the end. They are pacific people and even García y García showed himself prudent.

With respect to the Bolivians they are more than prudent and privately play the part of our friends, but in the conferences they follow the Peruvians. Let us leave this business of peace which is a joke and let us talk of war.

NO. 58. STATEMENT OF JOSE BALMACEDA ON THE CONFERENCE OF THE LACKAWANNA

October 29, 1880

INTRODUCTION AND SOURCE.—Men high in Chilean diplomacy, such as José Balmaceda, prominent member of the cabinet, had no faith in the conference. He wrote to a colleague his views on the peace in terse style and advocated a way of securing Tarapacá which suggests the famous doctrine of *spurlos versenkt* of the World War. From Gonzalo Búlnes, *Guerra del Pacífico*, Vol. II, p. 507.

The peace went to the devil, as it should have, for it was an illusion of timid souls to imagine it possible under these circumstances. The Peruvians and Bolivians gain diplomatically. There is a great difference in presenting to the world the cession of Tarapacá as an annexation consented in and authorized as an arrangement of peace and in presenting it as an attempt at annexation which will cause a cry of war of conquest. It should be presented as a consummated act, never as a frustrated attempt that will make the war more bitter and will hold us up to our jealous neighbors as a certain and inexcusable menace.

NO. 59. CHILEAN CIRCULAR ON TARAPACA BONDHOLDERS

December 24, 1880

INTRODUCTION AND SOURCE.—After the failure of the conference on the *Lackawanna*, each government issued a circular putting the blame on the enemy. In the Chilean circular of November 10 a statement gave the creditors of Peru to understand that Chile would assume the liabilities against Tarapacá which she stated she should keep, not as the result of conquest, but in lieu of war indemnity. Textually it was "The surrender of the territory

furthermore involved on the part of the successful power a recognition of the mortgages and incumbrances created upon it by Peru to her foreign creditors."

The understanding that Chile was to assume the great indebtedness of Peru that was secured by mortgages on nitrate wealth in Tarapacá had a double effect. It aroused the cupidity of claim holders of every stripe in various parts of the world, and it encountered opposition in the press and in the Congress of Chile. The ministry was obliged to issue a statement which clarified the atmosphere for the latter objectors. The following document is the explanatory statement sent Minister Osborn. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 149.

Republic of Chili, Ministry of Foreign Relations
Santiago, December 24, 1880

SIR: On the 10th of November ultimo I had the honor of addressing you informing you of the result of the conference held on board the Lackawanna in the bay of Arica, in the last days of October.

In view of the instructions given to our plenipotentiaries in the event of certain contingencies arising in connection with the conference, I then stated that the ceding of the territory claimed by Chili would have implied on the part of Chili a recognition of the mortgages executed by Peru to her foreign creditors. This expression has not been properly understood, as appears from the interpellations directed to the government in both houses of Congress.

By some, without taking into consideration the special circumstances of the case, the circular of the 10th of November was understood to be an absolute definition of the rights of creditors in the nature of an assertion of a principle; such an interpretation of it is not correct. The statement referred to is intimately connected with the instructions given to our plenipotentiaries, and both refer to the occurrences of certain contingencies that never took place.

It is known that the conference at Arica was productive of no result, and that matters continued in the same condition they were before the said conference was held. This statement thus becomes merely an expression of a fact which might have occurred had the allies accepted all the conditions with which it was connected. It might also have been a result of certain compensations or advantages provided for in the instructions, but it embraces no recognition of a right as has been supposed by some.

It was not intended in the circular alluded to, to define the rights of creditors. Its scope was confined to certain facts that had already occurred and others that might have grown out of the Arica

conference if certain circumstances then in view had taken place. The failure of the negotiations left matters in the same condition in which it found them, and consequently the rights alleged by certain parties with regard to the Tarapacá district will be settled according to the precepts of international law. This is the line of conduct which the government of Chili has observed from the beginning, and in which it has the purpose of continuing.

With this explanation of the true meaning of the statement which has been so imperfectly understood, I avail myself of the opportunity of offering to you the sentiments of high consideration with which I am, &c.,

Melquiades Valderrama

No. 60. DISPATCH OF SECRETARY EVARTS CORRECTING
OSBORN

December 27, 1880

INTRODUCTION AND SOURCE.—Following the *Lackawanna* conference Messrs. Adams and Christiancy blamed Mr. Osborn for not having insisted on arbitration. Mr. Osborn felt that Mr. Christiancy had made a mistake in coming to Santiago and in stating to a Chilean general in Peru that Chile had accepted mediation. A three-cornered controversy arose as to whether they had been expected to mediate, arbitrate, or intervene. Secretary Evarts without exactly deciding the issue did virtually rebuke Mr. Osborn for his remarks on our unwillingness to arbitrate at the conference. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 147, 148.

No. 115.]

Department of State

Washington, December 27, 1880

Sir: My attention has been called to the following passage of your remarks at the conference held at Arica, Peru, on the 15th of October last, as reported in the second protocol of those conferences:

His excellency Mr. Osborn remarked that it seemed proper to him, as well as to his colleagues, to place upon record that the Government of the United States does not seek the position of arbiter in this question. A strict compliance with the duties inherent to that position would involve much trouble and great labor, and, while he could not doubt that his government would accept the position if properly requested to do so, it was nevertheless proper that it be understood that its representatives did not court that distinction.

As it is not quite clear what the meaning and scope of your remark on that occasion was, I will thank you for explanation upon the subject. There was no impropriety in your making it clear to the representatives of the belligerent states that this government had no desire to unduly urge its arbitration upon them. If, however, it was your purpose to convey the impression that we would not cheerfully assume any labor and trouble incident to arbitration in the interest of peace and the service of justice, you have not correctly appreciated the views and wishes of this government. It is the sincere desire of the President to see an honorable and lasting peace secured among the South American republics now engaged in war, and he will shrink from no effort or responsibility which can properly tend to the accomplishment of such a desirable result.

In order to remove a possibly wrong impression which your language may have made upon the representatives of the belligerent powers, you will read this instruction to the minister for foreign affairs of Chili; and I will instruct Mr. Christiancy and Mr. Adams to read a copy of it to the ministers for foreign affairs of Peru and Bolivia, respectively.

I am, &c.,

Wm. M. Evarts

NO. 61. DISPATCH OF SECRETARY EVARTS REGARDING THE CREDIT INDUSTRIEL

February 17, 1881

INTRODUCTION AND SOURCE.—After sanguinary attacks by land and sea the outlying defenses of Lima were captured January 13 and 14. On the 15th, at the request of the diplomatic corps, a truce was held which was simultaneously broken while the officials were assembling to parley. That afternoon the Chilean armies won a decisive victory and on the 17th took possession of the Peruvian capital.

Here the war should have ended. President Piérola retreated to the mountains. Because he accused the Chilean army of having broken the truce and for other reasons, largely economic, Chile would not treat with the Peruvian executive. All kinds of rumors were circulated. A press was seized by the invaders in Lima called the *Actualidad* and in its columns there was advocated the stripping of Peru of all its public works and even the partitioning of the country among nearby nations. President Piérola sent a message to the Peruvian legation in Washington announcing the fall of Lima and suggesting arbitration by foreign powers, but conveying the information that Mr. Christiancy had no instructions. Secretary Evarts at once wrote to Mr. Christiancy "to press upon" the governments and officials, "the earnest desire of this

government to bring about peace, without unnecessary delay and upon reasonable and honorable terms, compatible with the true welfare of all the belligerents, and so as to be lasting.⁵²

Financial arrangements though were promptly made. A collector was named and plans prepared to levy a million pesos a month war contributions on Lima and Callao and the customs receipts of the port were taken over. The prescription list was not published until the 7th of March, but the decree was to be effective from February 1. Advance agents for guano naturally were on the ground negotiating with the Chilean commander for contracts.

Evidently foreseeing the end of Piérola's régime in Peru agents of the Credit Industriel approached Secretary Evarts on January 20 seeking the United States to be their international trustee, or at least their moral sponsor in assuming the receivership of the Peruvian nation.⁵³ Secretary Evarts assured the agents that the United States could not interest itself in behalf of any concern as such, but he sent a copy of the plan to Mr. Christiancy for his guidance in case the plan entered into the peace negotiations which it was presumed would soon take place. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 449-450.

No. 129. Confidential]

Department of State

Washington, February 17, 1881

SIR: The question of the restoration of peace in South America, ever present in this government, as you will have amply seen by my instruction No. 123 of the 10th instant, of which I send a duplicate to you by the hands of the same messenger who carried this present instruction, is presented to me to-day in a phase which I feel warranted in making known to you with whatever of confidence and reserve its nature may counsel.

Your latest dispatches, received here on the 15th instant, cover dates up to the 23d ultimo, and represent the success of the Chilean arms, as shown in the occupancy of the national metropolis by the invaders and the administration of its affairs by their officers, thus confirming the advices of the public press. And yet, at your time of writing, this condition of affairs left it problematical how far the prospect of a successful negotiation for ultimate peace might have been thereby hastened.

This Department has been approached by Count Montferrand, of Paris, and Mr. Suarez, understood to be a Peruvian citizen, with certain proposals or calculations of important financial interests in Europe looking to financial aids and facilities to enable the two

⁵² *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 441.

⁵³ For plans of Credit Industriel see Doc. No. 47 supra.

nations to liquidate advantageously to both, as it is argued, the obligations produced by the war and needing to be met as part of the terms of peace.

I have said to Mr. Suarez, who goes to Lima by the same steamer which carries this instruction, that I am always ready to press the mediation of this government towards early and honorable peace between the belligerents; that the financial facility and aid which the private interests he represents can furnish towards a liquidation of the pecuniary obligations that the war may have created and which may need to be met, are calculated to assist the restoration of peace; that, in this light, they will be laid before the representatives of the United States in Peru and Chili; and that any further responsibility of this government can only be determined by actual negotiations between the belligerents asking this government to assume them.

The "programme," as it is called by these gentlemen, it would seem, might form an element in the calculations of the belligerents as to the resources at their recourse in settling the terms of peace.

In this sense I have inclosed herewith two copies of the "programme" for your consideration, and for such comparison of views on it as Mr. Suarez (should he call on you) might invite and you might find it prudent to hold.

It is to be observed that any part or responsibility that this government might be asked by the belligerents, or by any financial administration that might be admitted by them into the adjustment considered or adopted to take, is reserved by this government to be treated with entire freedom whenever the matter should arise for consideration.

Count Montferrand and Mr. Suarez have both come to me under respectable introductions, and the financial bodies and persons whom they appear to represent, are well known and of much weight in financial circles.

You will, however, understand that the matter is placed before you only as an element which, if it can be made valuable and conducive to peace, this government would not like to have wanting to the belligerents, if their negotiations would find it useful.

You can impart to your colleagues, Mr. Osborn and General Adams, as much of this communication as occasion may suggest, but always in confidence.

I am, &c.,

Wm. M. Evarts

No. 62. LIST OF INTERESTED PARTIES IN THE CREDIT INDUSTRIEL

February 16, 1881

INTRODUCTION AND SOURCE.—The agents of the Société Général de Crédit Industriel et Commercial, called in this work the "Credit Industriel," furnished Secretary Evarts a list of the firms of the most prominence who favored their program and owned or controlled Peruvian bonds. The French committee formed a combination of interested parties in other nations who did not, as did the principal English group, seek Chilean support. They made a mistake financially in not accepting Chilean terms. Dreyfus Freres and Co., who are listed with this group did not depend on it alone. Besides making the contracts with President Piérola mentioned in his financial circular they attempted as soon as Lima was occupied to make contracts with Chile for Peruvian guano at a rate that would allow something toward the retirement of the bonds they held guaranteed by Peruvian guano sales.

This list was for Secretary Evarts' information and he did not send a copy to Mr. Christiancy. It is valuable in showing the ramifications of international guano politics. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 700, 701.

No. 427 *Confidential note—Re-Chilo-Peruvian affairs*

Interested parties in the contract between the Government of Peru and the "Société Général de Crédit Industriel et Commercial," dated at Paris the 7th January, 1880, subject to modifications in accordance with the financial and commercial programme submitted to Hon. William M. Evarts, Secretary of State, namely:

"English interest is represented by the high-standing house of Matheson & Co., bankers, whose business relations extend over the whole world, most especially to India and Spain. One of the partners is an influential member of the House of Commons.

There is no committee in England officially recognized by the Peruvian bondholders. Actually there are three conflicting committees more or less favorable to Chili.

But we have received assurances from the "foreign bondholders' committee" (the only corporation of the kind existing in Europe and maintaining regular official intercourse with foreign governments in connection with their external debts), tendering to the Crédit Industriel their good offices, and offering their aid and support as soon as we shall commence operations on behalf of the Peruvian creditors.

Belgian interest is represented by Mr. Louis Godderies, president of the Belgian-Peruvian bondholders' committee. Mr. Godderies

is a banker himself, and he is supported by first-class banking-houses connected with the guano and nitrate agency.

Dutch interest is represented by Mr. A. L. Vurfbain, president of the Dutch-Peruvian bondholders' committee. Mr. Vurfbain is the president of the Amsterdam stock exchange, and is equally supported by some of the principal bankers in Holland.

German interest is represented by the "Deutsche National Bank" of Bremen, seconded by powerful banking-houses. One of the members of the German group holds a seat in the national Reichstadt, and, I have been told, he disposes of a great influence in political circles.

French interest is represented by Mr. A. Guillaume, president of the French-Peruvian bondholders' committee. He is supported by the "Crédit Industriel," the "Banque Franco-Egyptienne," and many other banking and commercial houses of high standing. Among them, one of the most important, are Messrs. Dreyfus Frères & Co., lately guano agents at Peru, and at the same time one of the largest creditors of Peru.

Spanish interest is represented by some important banking and commercial houses of Barcelona and Valence.

American interest is represented:

1st. By a certain number of American citizens holding Peruvian bonds.

2d. By American citizens having entered into different contracts with the Peruvian Government, and who will not be able to realize their prospects if Chili should be allowed to enforce upon Peru and Bolivia her unjust, exorbitant, and humiliating conditions.

3d. By the agents for the sale of Peruvian guano and nitrate in the United States.

4th. By the American company actually holding a contract from the Government of Peru to lay a cable between Panama and Callao.

It is pertinent to observe, that while Peru and Bolivia have from the beginning of the war turned their eyes towards the United States, Chili, on the contrary, has to the present moment endeavored to fortify her political and commercial links with Europe. She has attempted on different occasions to place the guano and the nitrate deposits under the exclusive control of English houses; but her efforts have proved unsuccessful, owing to the open declaration of the British Government and of the English courts of justice, which will undoubtedly become more emphatic and decisive as soon

as it will be known that the United States has decided to mediate with the firm intention of settling the difficulties existing between the three sister republics, and adjusting every claim on equitable grounds to all parties.

WASHINGTON, D. C., *February* 16, 1881.

No. 63. PLAN OF LADISLAS CABRERA, MINISTER OF BOLIVIA,
TO LIQUIDATE WAR CLAIMS

February 18, 1881

INTRODUCTION AND SOURCE.—When the news of the capture of Lima reached the Bolivian minister in Washington he supposed the situation was too complicated for any settlement among the belligerents without outside influence. He said Bolivia was prepared to continue the struggle and that President Piérola was moving his headquarters to Arequipa in the interior of southern Peru and a settlement looked hopeless.

He recognized that the war was a struggle over the nitrate and guano wealth of the coast and stated that its development had hitherto been promoted mainly by Europeans. He now proposed that a company be organized in the United States and sponsored by that government to operate the business, liquidate all claims and furnish certain revenue to the governments possessing the deposits. He really asked for a neutral trustee of the nitrate industry. His plan and financial statement are rather similar to those of the Credit Industriel and there is an interesting coincidence in the dates of those documents. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 66, 67.

PLAN

1st. The organization of a company in the United States is suggested, for the purpose of working the guano and nitrate deposits of Peru and Bolivia, the company to consist of powerful capitalists, and the effective capital and organization to meet the approval of the Governments of Chili, Peru, and Bolivia.

2d. The three governments to turn over to the company, for the period of years, the entire and exclusive control and administration of the districts claimed by Chili by right of conquest, as well as any guano deposits not so claimed, and to guarantee their pacific occupation by the company.

3d. The United States Government to guarantee that the company shall remain in peaceable and undisturbed possession and administration of the districts to be designated in the contract.

4th. From the proceeds of the working of the guano and nitrate deposits—the company to retain such amounts as may be indicated

in the contract, and to apply the remainder in such proportions as Chili, Peru, and Bolivia may arrange by treaty.

First. To the war indemnity which may be agreed upon.

Second. To the payment of nitrate certificates.

Third. To the existing foreign loans of Peru.

Fourth. To the Peruvian Government.

Fifth. To the Bolivian Government.

5th. The company is to establish its own agencies in the various markets of the world, conduct and manage all sales of the guano and nitrate, and manipulate both products within limits to be agreed upon; but the entire operations of the company shall be subject to periodical report and inspection.

6th. The contract company to have authority to capitalize, in the form of a public loan, the war indemnity and the nitrate certificates: and if it be found convenient by the company, the Peruvian loans of 1870 and 1872 may be included in a single consolidated issue; the rate of interest, sinking fund, issue-price, commission, &c., to be agreed upon in consultation with the three governments.

Should a loan be negotiated, Chili to be paid the full war indemnity at once, and to release all claim and charges upon the guano and nitrate deposits and districts of both Peru and Bolivia held by the company, but not to retire her obligation guaranteeing the pacific occupation by the company, of the districts confided to its administration.

Washington, D. C., *February* 18, 1881.

NO. 64. MINISTER OSBORN'S DEFENSE OF THE LACKAWANNA CONFERENCE

February 24, 1881

INTRODUCTION AND SOURCE.—While our State Department was considering another attempt to bring about peace, the final echo of the *Lackawanna* conference came in the form of Mr. Osborn's explanation. It is noticeable that each of the ministers from the United States accredited to the three belligerent nations became a partisan for that nation where he resided. Adams and Christiancy hoped the intervention of their country would prevent further despoiling of the allies while Osborn wanted Chile to be allowed to reap the full fruits of the war. The fact that stands out all through the attempts at mediation is the positive information which our State Department had of the purpose and determination of Chile to retain Tarapacá. This is made most emphatic in the following document. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 151-153.

No. 195.]

Legation of the United States

Santiago, Chili, February 24, 1881. (Received April 5)

SIR: Referring to your instruction No. 115, wherein you quote from remarks made by me at the Arica conference, touching the suggestions there made concerning the submission of the question in dispute to the President of the United States as arbiter, and in which you express an apprehension that possibly I may not have correctly interpreted the views of the Government of the United States in that regard, I have to say that I have read your instruction to the minister of foreign relations, as therein directed, and am assured by him that his government has not been misled, in the least, by the remarks quoted by you from the protocol.

For nearly two years this government has known of the earnest desire of the President of the United States to see an honorable termination of the unfortunate war in this section, and of his willingness to contribute in every proper manner to the accomplishment of that result. This assurance in the precise sense of your instruction, if not in its exact language, has been given not once only, but repeatedly, until there has been left no room for doubt upon that subject.

The remarks quoted, to be correctly appreciated, should be read in connection with the discussion which was then going on in the conference, and in the light of surrounding facts. They were not intended to qualify or change, in the slightest degree, the views of the Government of the United States as hitherto made known to the several belligerents. Their purpose was to cover the single question then being discussed, and I am not informed that either of the belligerents understood them in any other sense.

As you well know, since the Chilians succeeded in getting possession of the province of Tarapacá this government has not been willing to listen to suggestions regarding peace which did not involve a cession of such province by Peru. The State Department contains many dispatches from me to this purport, and I judge, the allies were well informed on this point. It is impossible that they should have remained ignorant of the fact that the condition of public sentiment here was such as to preclude the possibility of a peace upon any other basis. When Mr. Christiancy was here, prior to the conference of Arica, President Pinto told him emphatically that our mediation would come to naught unless Peru

was ready to make this concession. I assume that the Piérola government was informed of this by Mr. C., upon his return to Lima, and prior to the acceptance by Peru of our mediation; but, be that as it may, I am positively assured that President Piérola was made acquainted with the facts in this regard by the European representatives in Lima. That they could not have been ignorant in Peru on this point is evidenced by the fact that Mr. Christiancy felt himself warranted in saying to President Pinto that he was confident that the demand made by Chili would be conceded.

With this understanding, then, our mediation was accepted, and the conference convened at Arica in October. The ministers who went from Chili were instructed to demand, among other things, Tarapacá. The sentiment of the country was a unit upon this point, and the government could not have done less and stood.

In the presence of these facts you will, perhaps, be able to comprehend with what surprise and mortification I listened to the reply of the allies in the second conference, wherein they announced that the very condition which was irrevocable presented an "insurmountable obstacle" to the conclusion of a peace. It was after this announcement of the conclusion reached by the Peruvian ministers, that Mr. Baptista, of Bolivia, following an assurance that he and his colleague were quite in accord with the representatives from Peru, suggested that perhaps the difficulty might be solved by leaving the "*remaining questions*" to arbitration by the United States. The allies knew perfectly well that the "*remaining questions*" were comparatively nothing in the settlement of the difficulty. They understood then, as the Peruvian Government at least had understood before our mediation was accepted, that the unbending demand of Chili would continue to be the cession of Tarapacá, and that peace was impossible unless that point should be yielded. In view of all this, how hollow was the proposition touching arbitration; how insincere.

It will not be forgotten that circumstances conspired to make our mediation exceedingly unpopular in Chili. For present purposes it will be sufficient to refer to this fact generally without calling attention to the causes therefor. So strong was the sentiment in opposition to the movement immediately preceding the holding of the conference that I am confident the government would have gladly retraced its steps in that matter if it could have honorably done so. The country was exceedingly sensitive upon the sub-

ject, and there was very great danger that the government would fall. All this I knew perfectly well, perhaps better than my colleagues. I felt the full responsibility of my position, and endeavored to so discharge my duty as to leave the United States Government blameless, let what might be the result of the movement. With this knowledge, and this determination, the remarks which you quote were made, and now, in the light of subsequent events, I do not hesitate to say that if a different course had been pursued by us—if we had given to the proposition submitted regarding arbitration a *quasi* approval—American influence here would have been very seriously crippled, if not entirely destroyed. As it was, the United States Government came out of the movement standing better here than it had ever stood before.

Trusting that this explanation may prove satisfactory,
I am, &c.,

Thomas A. Osborn

NO. 65. WAR CONTRIBUTION ORDER OF GENERAL SAAVEDRA

March 7, 1881

INTRODUCTION AND SOURCE.—Plans were made by the victors to levy contributions on Peru early in February, 1881. The matter was delayed for a time owing to a move of certain residents of Lima to form a *de facto* government which would assume the obligation and relieve the inhabitants of the weight of a proscription list.

On March 5 a decree of General Saavedra established and named a collector of contributions to receive the sums levied and to determine what property of Peru should be appropriated. The decree containing the provisions follows with the fifty names omitted.⁵⁴ From *Senate Executive Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, p. 465.

CORNELIO SAAVEDRA, general of brigade and in chief of the army of operations of the Republic of Chili.

Whereas, having in view the execution of article 3 of the decree of the 9th February last, and the note of the minister of war of the 5th of the present month,

I decree:

1st. That the department of Lima and Callao shall pay monthly the sum of one million of pesos in silver, or its equivalent in current money, according to the exchange of the time, to meet the expenses of the army of occupation.

⁵⁴ For list of these names see Caivano, Tomás, *Historia de la Guerra de América*, p. 75, Lima, 1900.

2d. The million for the month of February last shall be paid by the persons mentioned below, each of whom shall contribute twenty thousand pesos in coin for his quota.

[Here follow fifty names for 20,000 pesos each]

3d. The space of eight days is conceded from this date for the persons designated in the foregoing article to present themselves to complete the payment of the quota, fixed at twenty thousand pesos, in coin, assigned to each, into the office charged with the collection of the war contributions ordered by the decree of the 5th of the present month.

4th. If any of the persons named shall not pay his quota within the time fixed proceedings shall be taken to destroy, for the present, of the property of the delinquent at least three times the value, without prejudice to the right of personal compulsion.

5th. The chief of the general staff, Col. Don Pedro Lagos, is charged with the execution of this decree, and to this end the chief of the office of collection shall give an account on the same day of the term fixed by article 3 of the persons who have failed to make such payment.

6th. From this date no person of Peruvian nationality can absent himself from Lima or Callao without a passport previously issued from the general staff, under the penalty to the infractors of being tried before a military tribunal. This article does not apply to those who travel only between said two cities.

Let it be recorded and published. To the end that this decree shall be brought to the knowledge of all, it shall be published by proclaiming the same in public in fixing it up in hand-bills in the most public places of this city and Callao, it being the intention that this publication shall have the effect of a personal notice.

Given at the palace of government in Lima on the 7th of March, 1881.

Cornelio Saavedra

No. 66. EDITORIAL IN LA ACTUALIDAD ON APPROPRIATION OF PROPERTY

March 21, 1881

INTRODUCTION AND SOURCE.—After the first stern attempt at restraint had relaxed the conquerors rather badly plundered Lima and other Peruvian cities. Peru was helpless and almost hopeless. The only hope in continuing the war came from the fact that Argentina had finally consented to allow Bolivia to transport arms across her territory and a Bolivian force

was expected to coöperate with President Piérola in the Arequipa region as yet unharmed by Chile. While the allies could not expect to win the war they hoped to prevent the annexation of the entire coast which they believed Chile intended to do. They did not know that guano exploitation and not expansion beyond guano deposits was the motive of the war.

Mr. Christiancy reported that residents of Lima had even approached him regarding the possibility of the protection of Peru by the United States, believing that a protectorate was preferable to annexation. The morals of Chile are frequently condemned for the conquest of so much Bolivian and Peruvian territory. Without excusing this policy it may be explained by calling attention to the helplessness of the allies which offered great temptation to a victor, and to the commercial spirit of that epoch.

At the request of the people of Lima the Chilean commander allowed a provisional Peruvian government to be set up at Magdalena near Lima to devise means for paying the contributions required by the Saavedra decree.

On March 10 Mr. Christiancy received a protest from the curator of the national library and museum of Peru at Lima, saying that on February 26, although he had been promised immunity, the keys had been demanded and priceless manuscripts and books were being carted away. This appropriation of books and the taking of laboratory materials from the school of medicine and the agricultural station caused a protest from *El Orden*, the official organ of the new Peruvian government. The semi-official Chilean paper *La Actualidad* had the following answer which indicates the temper of the victors in 1881. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 472, 473.

* * * * *

The Chilean authorities have determined to follow and will still continue to dispose of national property of Peru, with the indisputable right, conceded by all the nations of the world to the conqueror, when it is to repay himself the expenses of the war, and when he has at hand the means of coercion, which obliges the enemy to put an end to the war, in order to prevent worse evils.

This is, nevertheless, the protest of the gentlemen of *El Orden*, what the Chilean authorities have done with the work-shops of cartridges, the machines of the school of arts, with books and instruments of sciences, and with one historical picture.

They can do it to-morrow with all the public buildings, beginning from the palace of government and ending with the last sentry-box.

They can, the day after to-morrow, still follow in doing so with all the public works, beginning with the railroads and ending even with the bridges over the water-courses crossing public works.

This is the right of the conqueror, and that of the conquered is to keep silence when he has not sought in time the means to avoid those evils of which he complains.

Consequently, we protest against the protests dissemblingly initiated by El Orden No. 14, accentuated in No. 15, and probably so out of all limits in to-day's number, or to-morrow's, or that of any of those days.

To begin by estimating, to follow with complaints, and to continue with charges, may end very soon, in great haste, with the armed protest, which is the last tone of the scale.

NO. 67. INSTRUCTIONS OF SECRETARY J. G. BLAINE TO
MINISTER JUDSON KILPATRICK

June 15, 1881

INTRODUCTION AND SOURCE.—In Lima Mr. Christianey was very close to reliable sources of information such as Sr. Godoi, who had returned to Lima, and to the British Minister Spencer St. Johns. He wrote to Washington on March 21 that the war had reached such a stage that the influence of the United States on that coast upon any question connected with the war, or the question of peace, could only be secured by active intervention against the will of Chile. He thought that the Credit Industriel plan might have been acceptable earlier in the war, but that nothing except active and hostile intervention by other powers would induce Chile to accept the plan.

It is interesting to notice that Francisco Calderón who was selected to head the provisional government set up at Magdalena was, financially as well as politically, in the party opposite to President Piérola. He was a young lawyer and was the agent of the Goyeneche interests.⁵⁵ It will be recalled that President Piérola had cancelled the contract with the Credit Industriel made by Goyeneche and Rosas and confiscated their estates in Peru.⁵⁶ Rosas now became ambassador in Paris for Peru. It would be somewhat extreme to say that Calderón became the president of Peru for Rosas, because Sr. Calderón was a man of high motives. But guano politics made and unmade presidents at that time in Peru and Chile, and President Jules Grévy of France had previously been attorney for Dreyfus and Company and acted in behalf of that company later.⁵⁷

Soon after the capture of Lima the great nitrate kings, John T. North and H. R. F. Jameson, were on the ground and made a contract for the sale of 40,000 tons of guano. This contract hurriedly made with General Lynch on behalf of the government of Chile contained a time limit of one year for shipping with a fine for each ton not shipped within that period. Haste was necessary because there was always the specter of intervention by the United States. Dreyfus and Company had tried to get a contract at a figure low enough to reimburse it for the bonds they owned against Peruvian guano.⁵⁸

⁵⁵See supra. Introduction to Doc. 47.

⁵⁶See supra. Introduction to Doc. 48.

⁵⁷See introduction to infra, Doc. 84.

⁵⁸*Primer Memoria de Lynch*, p. 162, quoted from Caivano, Tomás, *Historia de la Guerra de América entre Chile, Peru y Bolivia*, p. 92.

Besides receiving one-half the price of this, and all of other guano captured from Peru, Chile was receiving revenue from war contributions and from nitrate exports from Antofagasta (Atacama) and Tarapacá. Although the war had originally started over a tax of ten centavos which Bolivia attempted to collect, Chile did not now hesitate to tax nitrate shippers seventy-five centavos. Chile entered the war practically bankrupt and at the end of three years had a surplus.

On March 4 the new administration of President Garfield inherited the problem. The new Secretary of State, James G. Blaine, lent more than usual interest to the case.

In April there was an unsuccessful attempt to reinstall in Lima the constitutional City Council as it had existed before the Piérola revolution. President Calderón's government gained power slowly. The support given it by the Chilean army of occupation was of doubtful value because the masses looked upon Piérola as a hero for defying the Chileans from his mountain retreat. Calderón issued a call for a congress to meet on May 15, and Chilean safe conduct was given for representatives to assemble. Piérola issued a counter manifesto calling a congress to meet at Ayacucho on June 4. Secretary Blaine had advised Christiancy to recognize Calderón as soon as he thought it advisable. The call for the Ayacucho congress now delayed this recognition until the outcome of the dual congress could be seen.

Representatives of Great Britain, France, and Italy now tendered to Chile their offices to help negotiate for peace but were refused. Mr. Osborn in April counseled the Chilean government to give more support to the Calderón government by restoring the capital to him. He again stated to Secretary Blaine that Chile would certainly demand Tarapacá and possibly Moquegua. Mr. Osborn's vacation now long overdue was granted and he was followed by General Judson Kilpatrick. Mr. Christiancy in Lima was also to be relieved on August 3 by General Stephen A. Hurlbut. On June 15, 1881, Secretary Blaine sent both ministers instructions which indicated his policy. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 157-159.

Department of State,
Washington, June 15, 1881

SIR: The unfortunate condition of the relations between Chili and Peru makes the mission upon the duties of which you are now entering one of grave responsibility and great delicacy. Difficult as would be any intervention of the United States under ordinary circumstances, our position is further embarrassed by the failure of the conference at Arica, undertaken at our suggestion. It is evident from the protocols of that conference that Chili was prepared to dictate and not to discuss terms of peace, and that the arbitration of the United States upon any questions of difference with the allied powers of Peru and Bolivia was not acceptable and would not be accepted by the Chilian Government. Since that time

the war has closed in the complete success of Chili, and in what can scarcely be considered less than the conquest of Peru and Bolivia.

This government cannot therefore anticipate that the offer of friendly intervention in the settlement of the very serious questions now pending would be agreeable to the Government of Chili. It would scarcely comport with self-respect that such an offer should be refused, and it would be of no benefit to Peru and Bolivia that it should be offered and declined. But I am sure the Chilian Government will appreciate the natural and deep interest which the United States feels in the termination of a condition so calamitous in its consequences to the best interests of all the South American republics. It should also know that if at any time the interposition of the good offices of this government can contribute to the restoration of friendly relations between the belligerent powers, they will, upon proper intimation, be promptly offered.

While, therefore, no instructions are given you to tender officially any advice to the Government of Chili which is unsought, you will, on such opportunity as may occur, govern your conduct and representations by the considerations to which I shall now call your attention.

Without entering upon any discussion as to the causes of the late war between Chili on the one side and Peru and Bolivia on the other, this government recognizes the right which the successful conduct of that war has conferred upon Chili; and, in doing so, I will not undertake to estimate the extent to which the Chilian Government has the right to carry its calculations of the indemnities to which it is entitled, nor the security for the future which its interests may seem to require. But if the Chilian Government, as its representatives have declared, seeks only a guarantee of future peace, it would seem natural that Peru and Bolivia should be allowed to offer such indemnity and guarantee before the annexation of territory, which is the right of conquest, is insisted upon. If these powers fail to offer what is a reasonably sufficient indemnity and guarantee, then it becomes a fair subject of consideration whether such territory may not be exacted as the necessary price of peace.

But at the conclusion of a war avowedly not of conquest, but for the solution of differences which diplomacy had failed to settle, to make the acquisition of territory a *sine qua non* of peace is calculated to cast suspicions on the professions with which war was or-

iginally declared. It may very well be that at the termination of such a contest the changed condition and relation of all the parties to it may make readjustment of boundaries or territorial changes wise as well as necessary; but this, where the war is not one of conquest, should be the result of negotiation and not the absolute preliminary condition on which alone the victor consents to negotiate. At this day, when the right of the people to govern themselves, the fundamental basis of republican institutions, is so universally recognized, there is nothing more difficult or more dangerous than the forced transfer of territory, carrying with it an indignant and hostile population, and nothing but a necessity proven before the world can justify it. It is not a case in which the power desiring the territory can be accepted as a safe or impartial judge.

While the United States Government does not pretend to express an opinion whether or not such an annexation of territory is a necessary consequence of this war, it believes that it would be more honorable to the Chilian Government, more conducive to the security of a permanent peace, and more in consonance with those principles which are professed by all the republics of America, that such territorial changes should be avoided as far as possible; that they should never be the result of mere force, but, if necessary, should be decided and tempered by full and equal discussion between all the powers whose people and whose national interests are involved.

At the present moment, the completeness of the victory of Chili seems to render such a diplomatic discussion impossible. The result of the conflict has been not only the defeat of the allied armies, but the dissolution of all responsible government in Peru. Its soil is occupied, the collection of its revenues transferred to the conquerors, and its executive, legislative, and judicial functions in abeyance. It can neither enforce order within nor assure peace without.

An effort, and apparently a very earnest and honest one, has been made to create a provisional government, which shall gradually restore order and the reign of law. But it is obvious that for such a government to succeed in obtaining the confidence either of its own people or foreign powers, it must be allowed a freedom and force of action which cannot be exercised while Chili holds absolute possession and governs by military authority. This government,

therefore, has been glad to learn from its minister in Chili, whom you succeed, that the Chilian authorities have decided to give their support to the efforts of Señor Calderón to establish on a steady footing a provisional government in Peru.

You will, as far as you can do so with propriety and without officious intrusion, approve and encourage this disposition on the part of the Chilian Government, and this Department will be exceedingly gratified if your influence as the representative of the United States shall be instrumental in inducing the Government of Chili to give its aid and support to the restoration of regular, constitutional government in Peru, and to postpone the final settlement of all questions of territorial annexation to the diplomatic negotiations which can then be resumed with the certainty of a just, friendly, and satisfactory conclusion.

In any representation which you may make, you will say that the hope of the United States is that the negotiations for peace shall be conducted, and the final settlement between the two countries determined, without either side invoking the aid or intervention of any European power.

The Government of the United States seeks only to perform the part of a friend to all the parties in this unhappy conflict between South American republics, and it will regret to be compelled to consider how far that feeling might be affected, and a more active interposition forced upon it, by any attempted complication of this question with European politics.

If at any time you shall judge it expedient and advantageous to read this dispatch to the minister of foreign affairs, you are authorized to do so. The decision on this point is left to your discretion.

I am, &c.,

James G. Blaine

NO. 68. INSTRUCTIONS OF SECRETARY J. G. BLAINE TO MINISTER HURLBUT

June 15, 1881

INTRODUCTION AND SOURCE.—In May General Stephen A. Hurlbut was appointed by President Garfield as Minister to Peru. In the meantime Mr. Christiancy was in a quandary as to whether and when to recognize Calderón's government. Piérola's congress was postponed to July. Calderón made a clever bid for recognition by inviting the members of the diplomatic corps to attend the installation of his government, April 30. Mr. Christiancy was the only member who thought that the note of invitation could be

acknowledged without recognizing the government. The watchword in Chilean circles in Lima was indefinite occupation.

Coincident with the entry of Minister Hurlbut into this question was the ill-starred rise of the Peruvian Company in New York which was to prove the nemesis of that diplomat if not of Secretary Blaine also. In the history of this El Dorado of nitrates, many names of wealth were created such as North, Jameson, Dreyfus and Meiggs, but there were also many others who should have received more of the fruits of that bonanza than they did. Among the latter figure the names of two Frenchmen, Landreau and Cochet. Jean Theophile Landreau, as a guano prospector had located thirty-four new deposits for the Peruvian government when its credit was low and reports of exhausted guano beds had made it difficult for the administration to secure new loans. Since Cochet, who was the real discoverer of the value of the stream of wealth that later flowed from nitrates, had got nothing out of it, Landreau had made a contract with the government of Peru by which he was to receive 10 per cent of the returns of his discoveries, aggregating 1,000,000 tons. Since the yield was much more than that, he formally asked a settlement. After a long legal contest he was unable to collect his share and gave his brother, John Landreau, a citizen of Louisiana who had grubstaked him in his prospecting tours, a half interest in his claims. John Landreau then appealed to the United States government and Congress passed a joint resolution February 20, 1880, granting him the good offices of the President and the Secretary of State in the settlement of his claim.⁵⁹ The matter was given the attention of our minister in Peru and much was expected therefrom.

While this was occurring claims were revived based on the discoveries of Alejandro Cochet. By a decree of 1847 the Peruvian government had offered a third of any national wealth to its discoverer. Cochet discovered the process by which the extracting of nitrate of soda was made commercially profitable. He had also discovered that guano was really valuable after Alexander Humboldt had said it was not and after a trial ship load had been dumped into the Thames. Cochet had claimed a reward but never a third of all the nitrate wealth. The government acknowledged much of his claims to discovery but voted him only 6,000 pesos reward. He spurned it and after financial betrayal in guano contracts by his partner, a countryman, he returned to France where he was reported to have been buried in a potter's field.

An illegitimate son, who in Peru had the right of inheritance, sold his claim to one-third of all the nitrate wealth of that nation to a Yankee contractor of long residence in Peru who transferred it to a corporation in New York known as the Peruvian Corporation. This company was headed by one Jacob Shipherd who then entered the lists to make a fortune out of Peru. Besides owning the Cochet claims he had an understanding with Landreau to liquidate his claims also. In fine Shipherd's plan was to establish a claim to one-third of all the vast nitrate wealth of Peru and to liquidate all private as well as war claims of good standing. A resolution passed by congress in behalf of the Landreau claims and his connection with previous semiofficial finance led him to hope for official help in the form of intervention by the United States.

⁵⁹ *Congressional Record*, Feb. 20, 1880, 46th Congress, 2d Session, Vol. X, part 2, p. 1046.

Before Hurlbut left for Lima Shipherd tried to make him a party to the scheme by offering him stock in the corporation. Shipherd was obsessed with the idea that the State Department would back his schemes and hinted that it would back his plan as an American policy. The enemies of Secretary Blaine tried to prove him involved in financial diplomatic freebooting in South America and much of their suspicion was based on the wild propaganda of Shipherd. Secretary Blaine's letter of instructions to Hurlbut from *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 500, 501.

No. 2.]

Department of State
Washington, June 15, 1881

SIR: The deplorable condition of Peru, the disorganization of its government, and the absence of precise and trustworthy information as to the state of affairs now existing in that unhappy country, render it impossible to give you instructions as full and definite as I would desire.

Judging from the most recent dispatches from our ministers, you will probably find on the part of the Chilian authorities in possession of Peru a willingness to facilitate the establishment of the provisional government which has been attempted by Señor Calderón. If so, you will do all you properly can to encourage the Peruvians to accept any reasonable conditions and limitations with which this concession may be accompanied. It is vitally important to Peru that she be allowed to resume the functions of a native and orderly government, both for the purposes of internal administration and the negotiation of peace. To obtain this end it would be far better to accept conditions which may be hard and unwelcome than by demanding too much to force the continuance of the military control of Chili. It is hoped that you will be able, in your necessary association with the Chilian authorities, to impress upon them that the more liberal and considerate their policy, the surer it will be to obtain a lasting and satisfactory settlement. The Peruvians cannot but be aware of the sympathy and interest of the people and Government of the United States, and will, I feel confident, be prepared to give to your representations the consideration to which the friendly anxiety of this government entitles them.

The United States cannot refuse to recognize the rights which the Chilian Government has acquired by the successes of the war, and it may be that a cession of territory will be the necessary price to be paid for peace. It would seem to be injudicious for Peru to declare that under no circumstances could the loss of territory be

accepted as the result of negotiation. The great objects of the provisional authorities of Peru would seem to be to secure the establishment of a constitutional government, and next to succeed in the opening of negotiations for peace without the declaration of preliminary conditions as an *ultimatum* on either side. It will be difficult, perhaps, to obtain this from Chili, but as the Chilian Government has distinctly repudiated the idea that this was a war of conquest, the Government of Peru may fairly claim the opportunity to make propositions of indemnity and guarantee before submitting to a cession of territory. As far as the influence of the United States will go in Chili, it will be exerted to induce the Chilian Government to consent that the question of the cession of territory should be the subject of negotiation and not the condition precedent upon which alone negotiation shall commence. If you can aid the Government of Peru in securing such a result, you will have rendered the service which seems most pressing. Whether it is in the power of the Peruvian Government to make any arrangements at home or abroad, singly or with the assistance of friendly powers, which will furnish the necessary indemnity or supply the required guarantee, you will be better able to advise me after you have reached your post.

As you are aware more than one proposition has been submitted to the consideration of this government looking to a friendly intervention by which Peru might be enabled to meet the conditions which would probably be imposed. Circumstances do not seem at present opportune for such action; but if, upon full knowledge of the condition of Peru, you can inform this government that Peru can devise and carry into practical effect a plan by which all the reasonable conditions of Chili can be met without sacrificing the integrity of Peruvian territory, the Government of the United States would be willing to offer its good offices towards the execution of such a project.

As a strictly confidential communication, I inclose you a copy of instructions sent this day to the United States minister at Santiago. You will thus be advised of the position which this government assumes toward all the parties to this deplorable conflict. It is the desire of the United States to act in a spirit of the sincerest friendship to the three republics, and to use its influence solely in the interest of an honorable and lasting peace.

I am, &c.,

James G. Blaine

No. 69. REPORT OF STEPHEN HURLBUT, MINISTER TO PERU

August 10, 1881

INTRODUCTION AND SOURCE.—On June 16 Mr. Christiancy had a conference with the Chilean minister in Lima, Sr. Godoi and with Admiral Patrick Lynch, military governor. These men did not wish foreign countries to recognize the government of provisional President Calderón until Chile did. Chile had also sent emissaries to treat secretly with President Piérola. On the 19th Godoi called and when Mr. Christiancy stated that he probably would recognize President Calderón if he secured a quorum in his congress or got back to constitutional government, Godoi remarked that peace was a long way off. He did not know that Christiancy knew that Chile was treating with President Piérola too and that Christiancy was convinced that Chile was playing Calderón and Piérola off against each other. Christiancy, however, did not know about the one year time limit on the guano contract made by the commander of the army of occupation.

Mr. Christiancy soon resolved to recognize the government of Sr. Calderón although his judgment told him it would be better to wait until the results of President Piérola's congress were known. He heard that his successor Hurlbut, had been named, but was not to relieve him until after the recognition, so in order to avoid the appearance of withholding recognition in order to retain his post longer, he recognized the Calderón government June 26—just fifteen days after its congress secured a quorum.

Mr. Hurlbut who had arrived in Lima made on August 10 a report of the situation to Secretary Blaine as follows. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 510-512.

No. 2.]

Legation of the United States

Lima, Peru, August 10, 1881

(Received September 22)

SIR: I propose, in this dispatch, to lay before you the precise situation of affairs in this country, so far as I have been able to ascertain such situation, both military and political.

The military situation is perfectly simple. Peru is effectually conquered. She has no longer any army or navy; she has no soldiers, no ships of war, no fortresses, no guns in position or in the field, no munitions of war, no means of buying any, no revenue, no treasury.

War, as such, is finished, so far as she is concerned, and has been for six months.

The Chileans have captured or destroyed her navy, have occupied, and still hold her entire sea-coast, her capital city, and her custom-houses. They have occupied in force the territory of Tarapacá, with its nitrate beds, and they hold the guano deposits, and all the

accessible and fertile valleys debouching on the sea. They collect the duties at all the ports, they sell the nitrates and guano, they levy heavy contributions on the cities, and on the planters in the country held by them. The duties at the custom-houses collected by them in June were \$400,000 in silver.

In the interior there is some show of resistance, but infinitely more show than substance. Secure in the physical obstacles to the march of troops, small bands of irregulars travel over the slopes of the Andes, more dangerous to their countrymen than to the Chilians. Regular war is out of the question, and, for all practical purposes, armed resistance to the Chilian force has ceased.

In so far as regards the political situation of the country in its internal relations, I consider that the government of Garcia Calderón was properly recognized by my predecessor. It is not a regular or constitutional government, but it is infinitely more so than that of Piérولا, which was a violent usurpation, autocratic and despotic. Around the Calderon government all the better class of men, the holders of property, the men of education, the friends of constitutional order and of peace, are disposed to assemble.

There has been, and is now in session a national Congress, representing in its number a very decided majority, and a full quorum of senators and representatives, long since legitimately elected under all constitutional forms.

This Congress has recognized Mr. Calderon, and re-elected him as Provisional President. Calderón and his cabinet are perfectly ready to give way, at any time, to any man of character, who can unite all elements in the nation, and who may be approved by the Congress.

To this end negotiations are now going on with Piérولا and his adherents. It is hoped they may succeed, and that a single head of the republic may be recognized by all.

The element now represented by the Calderon government desires peace, and Congress has authorized the Provisional President to enter into negotiations for that purpose.

I now propose to state to you the difficulties and special hardships which surround the Calderon government in their honest attempt to procure fair conditions of peace.

In the first place, the Chilian authorities have never recognized this government in any clear and distinct form. It has, from the beginning, been tolerated, consented to, and in some particulars,

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1897

aided, by the Chilian military authorities; a part which may either be from a real desire to remain in Peru, or more probably to foster a division in the country which would still farther diminish her capacity for resistance.

Pursuant to the resolution of Congress, Mr. Calderón has sent his plenipotentiaries to confer on terms of peace with Mr. Manuel Godoy, the Chilian commissioner. Mr. Godoy has so far declined to receive these plenipotentiaries, and the reason is evident. By reception and the exchange of credentials the government of Mr. Calderón would be effectually recognized as the authority in Peru. Mr. Godoy then proposed to confer directly with President Calderón, but insisted that the conferences should be of a private character. To this the Peruvians replied, that the making of peace was an affair of the highest public nature, with which they could only deal in their public character, and reiterated their request for exchange of credentials. Mr. Godoy has taken time to-day to refer the question by telegraph to Santiago.

It is the purpose of the Peruvians to insist on recognition, and to prolong the discussion as much as possible.

I gather from various sources, and with reasonable certainty, the actual purposes of Chili.

It appears to be the declared intention of the existing government in Chili to make the cession of the department of Mochequa up to the river Ilo, the *sine qua non* of peace.

To such cession it is simply impossible for any Peruvian Government to consent; *first*, because public indignation would overthrow any that should so consent; *second*, because the constitution of Peru expressly forbids the execution of any treaty which diminishes the territorial integrity or reduces the sovereignty of Peru; and *third*, because the possession of that territory by Peru is the only visible means of future support, and of payment of their large public debt.

Yet it is in the power of the Chilian military authorities to extinguish the Calderón government, and thus leave the country to anarchy; and I feel satisfied that if they cannot obtain from Calderón submission to such terms as they are likely to dictate, they will dissipate his government, unless it shall be sustained by some stronger power.

Mr. Calderón says to me, that he will not consent, in any event, to the division of Peruvian territory, and that he will endure any consequences. He also says, that he is prepared to pay any in-

demnity in reason, to twenty, thirty, or even forty millions of dollars, and inasmuch as the Chilian Government officially state that \$30,000,000 is the limit of their war expenses, and that they have received large sums, the indemnity would seem to be abundant. I fear that Peru, *alone*, cannot hope for endurable terms of peace from Chili, yet although utterly beaten in the war, she ought still to be considered as a nation.

All South America, except Brazil, is opposed to the pretensions of Chili, and all, without exception, look to the United States as the sole hope for the future of Peru, and as the only power capable of checking this greed of conquest.

It is, in my deliberate and carefully considered judgment, the proper time for the United States to act as a friend to both parties, and to say very kindly, but very firmly, to Chili, that war has fulfilled all its legitimate purposes; that longer continuance of the state of war would be disastrous to both countries, and an unnecessary invasion of the rights of neutrals, engaged in commerce or owning as they do, large properties in Peru; and that a peace honorable to both countries should be concluded as soon as possible, on fair terms as to indemnity. It will be remembered that Chili in the Arica conferences denied any purpose of acquiring territory by conquest, and placed her demand for cession of territory solely upon the ground that Bolivia and Peru had not the means to pay a money indemnity.

Inasmuch as Peru offers to pay and can pay a money indemnity, the forcible annexation of territory ought not to be permitted. By such action on the part of our government we would gain the highest influence in South America, we should subserve the purposes of a truer civilization, and inaugurate a higher style of national and international law on this continent.

In whatever form this may be done, if done at all, it ought to be done very speedily, and as a very serious emergency may arise at any time, I should be happy to receive from the Department by telegraph, some indication of approval or disapproval of my views.

As I am at present advised, after careful consideration of the instructions given to myself and Mr. Kilpatrick, and the personal conferences held with you, I shall not interfere with Mr. Godoy or his negotiations unless it shall be apparent that the purpose is to crush out the national life of Peru. In that case I shall calmly and strongly protest against such a course, and indicate in distinct

terms that such action does not at all conform to the wishes of the United States, and meets with its disapproval. This, however, only in case the emergency shall arise before I hear from the Department.

I am well aware that the proper channel of communication is at Santiago, but inasmuch as the peace conferences have been undertaken here, I should desire full instructions.

The condition is very serious, and demands prompt action if it be the purpose of the United States to save Peru from being obliterated as an independent power.

You may be assured that I shall not precipitate matters, but shall endeavor in all ways to have the preliminary negotiations prolonged, that you may have full time for consideration and for transmission of instructions both to Lima and Santiago. I inclose copy of a confidential letter to General Kilpatrick, and close by repeating that no such opportunity for the just extension of American influence in the interest of humanity has been presented to my knowledge, and that the failure to use it would, in my judgment, relegate the whole of South America over to European influences, which are openly or covertly hostile to the United States, at all events so far as their representatives on this coast are concerned.

The English steamer leaves Panama every Wednesday, and a telegram to that point would reach me in nine days after its delivery.

I have, &c.,

S. A. Hurlbut

NO. 70. STATEMENT OF MINISTER JUDSON KILPATRICK OF CHILEAN TERMS

August 15, 1881

INTRODUCTION AND SOURCE.—This report states that Chile would not exact territorial indemnity, and it seems that both Secretary Blaine and his successor so understood it. The men who made the statements quoted hastened to deny them later when the news got back to Chile. They even questioned the veracity of Mr. Kilpatrick who died soon after this interview. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 160-162.

No. 3.]

Legation of the United States
Santiago, Chili, August 15, 1881
(Received September 22)

SIR: The considerations and instructions contained in your dis-

patch No. 2, dated June 15, 1881, relating to the course Chili should pursue in the final settlement of peace with Peru, have received my earnest attention.

You say in your dispatch that—

The Department will be exceedingly gratified if your influence as the representative of the United States shall be instrumental in inducing the Government of Chili to give its aid and support to the restoration of regular constitutional government in Peru, and to postpone the final settlement of all questions of territorial annexation to the diplomatic negotiations, which can then be resumed with the certainty of a just, friendly, and satisfactory conclusion.

If I understand you aright this is the full intent and purport of your dispatch.

Taking this for granted, I have the honor to report that, so far as the assurances of public men can be relied upon, your instructions have been complied with, your ideas of final terms of peace accepted, not only by present administration at Santiago, but, still better, by Señor Santa María, the President-elect, whose administration will have begun when you receive this note.

I beg your patient attention to the somewhat lengthy explanation I am compelled to make of my action in the matter.

As soon as I received your instructions I made inquiries to ascertain the real intention of the Government of Chili regarding peace with Peru. For a time I was completely misled; it seemed as if the government had no plan, but would leave the whole matter of final settlement to the incoming administration. In this I was mistaken, as were the public men of Chili with whom I conversed, outside the President and his cabinet. I discovered later on that the President was alarmed at the views you advanced, delicately brought to his attention, and in all probability would not be inclined to accept them. I at once became satisfied that the President and his cabinet held not only other views, but were contemplating absolute peace with the Government of Señor Calderon. I therefore did not deem it wise to acquaint the Secretary of State and the President with the full purport of your dispatch. I adopted what I thought to be a wiser course; I called upon Señor Louis Aldunate, the first friend of the President-elect, a gentleman of great ability, who, I have reason to know, will occupy the first position in the cabinet of President-elect Santa Maria. I read him your dispatch, and at the same time informed him of my belief regarding the intention

of President Pinto. After a full discussion of each separate point, and explanations of what I believed to be the result of misinformation on your part regarding "annexation of hostile territory," (to which I will refer again) your views were substantially accepted as wise and just. Señor Aldunate immediately acquainted President-elect Santa María with the contents of your note, and both have assured me—

That not one foot of Peruvian territory will be exacted by force unless all efforts of diplomatic negotiations shall fail, and that in no case can Chili treat finally with the Government of Señor Calderon until it shall appear that his government is respected and obeyed throughout Peru, which does not obtain at this moment. That no doubt President Pinto would like to celebrate the last days of his administration by a proclamation of peace with Peru, with the Government of Calderon, a government without a single element that constitutes a real government, and that would fall at once but for Chilean protection.

I was invited to attend Congress the following day, when the government would be interpolated regarding its plans and purposes. I went, found the House crowded with people, and, amid great excitement, heard the cabinet of President Pinto questioned and worried by Señor Lira, the first orator of Chili. I intended to send you translations of the speeches in this debate, but am too unwell to attempt it. I have been confined to my bed the greater portion of the time since my arrival in Chili. This debate developed the fact that President Pinto was contemplating peace with the Government of Calderon—peace which, from the nature of the debate, I was satisfied, must of necessity include territorial annexation. Intimate friends of the administration not only confirmed this belief, but convinced me further that President Pinto was determined to accomplish his purpose, that he yet had time, and that the Government of Calderon was in no condition to refuse any conditions Chili might impose. How to prevent this without giving offense to President Pinto I could not satisfactorily answer. I had gained the incoming administration; this was not sufficient. I determined finally to approach the administration, and change its purpose if possible. I sent for Señor Aldunate and Señor George Huneens, the solicitor for the government whose name you will find frequently mentioned in the paper relating to the Arica conference, and asked them to arrange for me a meeting with the secretary of

state and secretary of war, the dominant members of the President's cabinet.

After some delay this was agreed upon, and a conference was held at my house last night between Señor Valderrama, secretary of state, Señor Vergara, secretary of war, Aldunate, and Huneens. The conference lasted from 7 p. m. till one in the morning. I am too ill to give you a full account of the meeting; the result is all I can forward at this time.

Your dispatch was read and fully considered, and its advice and suggestions pressed upon the secretary of state. He finally replied, "The ideas indicated by Secretary Blaine are in direct conflict with those held by the Government of Chili, and if we abandon our policy it is out of respect for the opinion of the administration at Washington. You may therefore say to your government, that every effort would be given by Chili to strengthen the Government of President Calderon, giving to it the most perfect freedom of action, considering the Chilian occupation. That no question of territorial annexation would be touched until a constitutional government could be established in Peru, acknowledged and respected by the people, with full powers to enter into diplomatic negotiations for peace. That no territory would be exacted unless Chili failed to secure ample and just indemnification in other and satisfactory ways, as also ample security for the future, and that in no case would Chili exact territory save when Chilian enterprise and Chilian capital had developed the deserts, and where to-day nine-tenths of the people were Chilians; and finally that Chili would never consent to submit her rights gained in battle to the arbitration of any European power." This embraces, I think, all the important points contained in your dispatch, and if so, then I trust I have, fulfilled my instructions.

The character of the territory, its people, &c., that Chili may finally be compelled to demand, I will speak of in my next communication. One other matter and I have done. The secretary of state has just placed in my hands the following telegram, dated Lima, August 16:

Hurlbut, the United States minister, has notified Calderon that the United States will under no circumstances permit annexation of territory to Chili; he has also repeated this statement to outside parties. It is now the subject of conversation here, complicates and endangers our occupation.

Lynch,
Commandant in Chief.

If this be true, which I cannot believe, it will not only create bad feeling here in Chili, but compromise my action. Certainly it is not in conformity with my instructions, for you distinctly say "Peru and Bolivia should be allowed to offer such indemnity and guarantee *before the annexation of territory, which is the right of conquest*, is insisted upon." Again, you say, "If these fail to offer what is a reasonable, sufficient indemnity and guarantee, then it becomes a fair subject of consideration whether such territory may not be exacted as the necessary price of peace." In no way can the letter or spirit of your dispatch be tortured into saying "The United States will not permit in any case annexation of territory to Chili." General Hurlbut has not sent me the Department cipher, or I would telegraph him, that he may know that he has been misunderstood or misinterpreted, and in time correct false impressions. If my mission is a delicate one, his is still more so, for he has two governments to deal with, the Chilian Government, under Lynch, and the provincial government of Calderon. I have done what I could to satisfy the secretary of state that there must be some mistake; that you would not send one class of instructions to me and another to our minister at Lima.

Very, &c.,

J. Kilpatrick

No. 71. MEMORANDUM OF MINISTER HURLBUT TO
ADMIRAL LYNCH

August 25, 1881

INTRODUCTION AND SOURCE.—After recognition by the United States of President Calderón and the arrival of new ministers to each country there was acute interest in the attitude of the United States toward peace terms. Reports from Chile indicated that milder demands would now be made on Peru. Mr. Hurlbut was confident of the efficacy of our influence and apparently expected an early settlement.

He wrote to Secretary Blaine that Christiancy had been in the questionable habit of calling the diplomatic corps together to consult on all matters. He said that that "practically emasculated the United States and deprived them of their leadership." He held aloof and soon Admiral Lynch came to learn, for his "own personal guidance and not in any diplomatic sense," what the sentiments of the United States were. Hurlbut was glad to give them and offered to reduce them to writing in the form of a memorandum. Lynch went directly to the British legation and within three hours the British and French ministers visited Sr. Calderón and offered their good offices. Previously they had steadfastly advised President Calderón that it would be impossible to make peace with Chile without cession of territory. They now faced about

and said they believed they could arrange it through Admiral Lynch. A reading of the memorandum does not reveal at once anything very inflammable, but it created a furor in Santiago and brought a protest from the Chilean legation in Washington which considered the memorandum obnoxious and officious. From *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 516, 517.

Memorandum

Without any reference to the causes of the war, I understand my government to be of the opinion that all legitimate purposes of war have been accomplished by the over whelming defeat of the Peruvian armies, the capture or destruction of their navy, and the occupation of the capital and entire sea-coast.

When organized and respectable resistance has ceased the state of war ought to cease. That commerce and the rights of neutrals have been sufficiently injured; and that the large interests in Peru which are held by foreigners, many of them Americans, should not longer be imperiled by the unnecessary prolongation of the state of war.

For these reasons, and because of the friendly feeling of the United States to both parties, we are of the opinion that peace is the first duty of both nations.

I wish to state further, that while the United States recognize all the rights which a conqueror gains under the laws of civilized war, they do not approve of war for the purpose of territorial aggrandizement, nor of the violent dismemberment of a nation, except as a last resort and in extreme emergencies. As there never has been any question of boundaries between Peru and Chili, and therefore no frontiers to regulate, and as Chili has repeatedly, publicly, and officially disclaimed any purpose or design of forcible annexation of territory, we are clearly of opinion that such action now would not comport with the dignity and public faith of Chili, and would be disastrous to the future tranquillity of both countries by establishing a very serious grievance, which would constantly tend to manifest itself in disturbances.

The United States concede, as a matter of public law, that Chili has the right (under the code of war) to full indemnity for the expenses of the war; and that Peru ought to pay such indemnity as may be agreed on by the parties, or be determined by a disinterested arbiter, in case they cannot agree (if such mode be selected); and further, that Chili has the right to demand securities, if time is given for the payment.

But we are also very clearly of the opinion that Peru ought to have the opportunity, in full and free discussion of the terms of peace, to offer such indemnity as may be satisfactory; and that it is contrary to the rules which should prevail among enlightened nations to proceed at once, and as a *sine quâ non* of peace, to transfer territory, undoubtedly Peruvian, to the jurisdiction of Chili, without first demonstrating the inability or unwillingness of Peru to furnish indemnity in some other form.

Such a course on the part of Chili would meet with decided disfavor on the part of the United States.

It ought to be borne constantly in mind that Chili has won military reputation, and can afford to deal not only justly, but liberally. Peru has lost military reputation, and cannot afford much further humiliation and that it is never wise to drive even a conquered people into desperation. Chili has acquired her high place among the nations by the benefits of a settled government; by due enforcement of the laws; by the labor and industry of her people; in short, by the arts of peace. To this she has added, in this war, splendid triumphs by land and sea. The United States would deeply regret if she should change her course and be carried away on a career of conquest, because the military and aggressive spirit would interfere with her true progress, excite dangerous animosities, and combine many elements against her. We are, therefore, of the opinion that the act of seizure of Peruvian territory and annexing the same to Chili, whether done by mere superior force or by dictating the same as an imperative condition of the cessation of hostilities, in manifest contradiction of previous disclaimers of such purpose by Chili, would justly be regarded, by other nations, as evidence that Chili had entered upon the path of aggression and conquest for the purpose of territorial aggrandizement. The United States desire, above all things, that peace should continue among the South American republics, and that commerce and industry should combine to develop their wonderful resources to their own advantage, and for the benefit of the world, and we are unable to see any good reason why the state of war should much longer continue, to the serious prejudice of such vast interests, nor any good reason why peace, on terms of justice, should not be consummated at an early period, without unnecessary humiliation to one party and with full satisfaction of all the appropriate demands of the other.

S. A. Hurlbut

No. 72. REPORT OF MINISTER S. A. HURLBUT

September 21, 1881

INTRODUCTION AND SOURCE.—After the Lynch memorial Mr. Hurlbut next turned his attention to President Piérola who was still in the mountains and had issued a decree ordering the arrest and execution of any delegates to the Calderón congress. Upon learning of the recognition of Calderón by the United States and of the arrival of a new minister who gave promise of intervention, Piérola's secretary, García y García wrote a note to Hurlbut claiming that Piérola was the legal president of Peru.

Hurlbut answered that Piérola was a dictator and the acts of his assembly were illegal, that Peruvians were worse enemies of Peruvians than the Chileans could be, and that the efforts of the friends of Peru were paralyzed by their intestine dissensions. He urged all Peruvians to unite in restoring peace.

While Hurlbut was boldly doing his duty as he saw it he had to contend with Jacob Shipherd of the Peruvian Corporation in New York who was alternately urging him to support the Cochet claims and threatening him with removal for supposed support of the Credit Industriel.

Hurlbut then made a mistake somewhat difficult to understand, which brought a deserved rebuke from Secretary Blaine. In September he drew up a protocol for the lease of a coaling station at Chimbote and the purchase of the Chimbote railroad. The latter was to be bought by a company to be formed in the United States and Hurlbut was to be the trustee until the company could be formed. The first was valueless owing to conditions stipulated, and the second an improper procedure for a diplomat, as Secretary Blaine forcibly told him. On September 21 Mr. Hurlbut asked for orders. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 525, 526.

No. 14.]

Legation of the United States

Lima, Peru, September 21, 1881

(Received October 17)

SIR: Since my last dispatch there has been nothing of any special consequence. I am still without any reply from General Kilpatrick to my communications, which is probably due to the severe illness with which he has been afflicted.

It appears to be of vital importance that the United States should determine, in advance, the position which they will hold in relation to the procurement of peace and the settlement of the questions between Peru and Chili.

I hope by the next steamer, or at all events by that which will arrive on October 1, to have some definite communication from you.

I believe that Chili will make the cession of Tarapacá a *sine qua non* of peace, and that on this point they will not admit of discussion, unless under pressure from some other power than Peru.

If the United States are disposed and ready to insist that Peru shall have the opportunity to offer a money indemnity, and thus escape cession of territory, I am satisfied that such insistence on our part should pass directly from the Secretary of State to the Chilean minister at Washington, and thus come with the highest authority.

If, however, the Department of State is not willing or prepared to take this step, I cannot see how I can exercise any wholesome influence upon the stronger of the two belligerents.

The governments, both of Chili and Peru have undoubtedly been informed that the United States would view with serious disfavor any request for, or acceptance of, aid from any European government in this matter of American policy.

I know that Peru fully understands this, and I presume General Kilpatrick has communicated to Chili the views expressed in your instructions to him.

Being thus imperatively cut off from European aid, and practically limited by the act of the United States to the friendly offices of our government only, it would seem that a duty was, by its own act, imposed upon the United States, to render effective and positive aid to the solution of this question.

Valmacida, minister of foreign affairs of Chili, said lately in a speech in their Congress, "that Chili must soon determine for herself whether she should return to her ancient boundaries or extend herself over half the continent."

It is not, in my judgment, for the interest of the United States that there should be any very largely preponderating power in South America, and still less so, if that preponderance shall be acquired, not by regular growth and development, but by violent and military means.

Yet at this very time there is danger of just such preponderance, obtained by just such means, and the only preventive I can see for this evil is the direct and specific action of the United States.

There is danger, even now, that the treaty between Chili and the Argentine Republic may fail of ratification, in which case war between these republics appears inevitable, especially as the Argentines look with great apprehension upon the military and naval development of Chili as a perpetual threat to them.

The Argentine Republic is now ready for war, and if they believe it to be imminent in the near future, they will of course prosecute it, while *Chili* is embarrassed by Peru and Bolivia.

Thus it is possible that the future peace and good order of South America may hinge upon the determination to be taken by the United States, in reference to the proper conclusion of the Peru-Chilian affair.

It is a noticeable fact that the Chilian Government has asked from their Congress appropriations for an army of 24,000 men, and a full war establishment for their navy, for the coming year, indicating that they propose to continue the state of things which makes such expenditure necessary.

This force is a very heavy one for Chili to keep up, and is sufficient for active war operations, and excessive for what remains to be done in Peru. It is therefore considered by the Argentines to be in the line of a menace to that country.

In the internal affairs of Peru, there is as yet no special development, except that I believe the dissension from Piérola in the interior, and the tendency to support Calderón, to be on the increase.

I was in hopes to have received the message of President Santa María, in time for this mail, but it has not come, and as I have no communications from General Kilpatrick, I am quite in the dark, officially, as to the course of events in Santiago, and even as to the fact whether my colleague there is in harmony with my views.

Reports are very current that he is not, but you will of course be advised of his action and his purposes.

I have, &c.,

S. A. Hurlbut

NO. 73. INSTRUCTIONS OF SECRETARY BLAINE TO WILLIAM
HENRY TRECOT, SPECIAL ENVOY

December 1, 1881

INTRODUCTION AND SOURCE.—Secretary Blaine was not deterred from his peace policy in South America although his efforts had been frustrated by the shirt-sleeve diplomacy of General Hurlbut, by Kilpatrick's virtual disavowal of Hurlbut and by Kilpatrick's fatal illness. The Secretary of State left the two ministers at their posts to attend to their ordinary legation duties and after a merited censure of both appointed on November 30, 1881, a trained diplomat, William Henry Trescot, to go on a special mission of mediation to the three belligerents.

There were other motives besides the well known policy of Pan Americanism which prompted the sending of the special mission. On August 11 the United States Minister to France, Levi P. Morton, wrote to the State Department that President Jules Grévy had suggested to him that the United States should intervene in the war; that French subjects were suffering because of the un-

due demands of Chile on Peru and that some kind of intervention ought to take place. Secretary Blaine replied that he also deplored the situation, but that the United States could not enter into any joint intervention with European powers. In his reply he stated a conception of Pan Americanism that was more of an ideal than a reality as events were soon to prove. "Their proximity of situation, similarity in origin and form of government, unity of political interests on all questions of foreign intercourse, and their geographical remoteness from Europe have naturally given to American states closer and especial relations to each other, and in the course of time removed them further from the European system." This was said when the only cable connection between Washington and South America was by way of Paris and the quickest and cheapest steamship lines by way of Liverpool. Minister Morton had another interview with President Grévy who expressed the opinion that the United States should intervene alone.

Intervention was also in line with the South American policy of Secretary Blaine. He was planning an American congress to meet in Washington, and to further this project as well as to lend dignity to the mission of Trescot, he commissioned Walker Blaine, Third Assistant Secretary of State, to accompany him and to present to the Latin American nations invitations to the congress. The delegates were to meet in November 1882, which he supposed would give ample time for the war to terminate. Full instructions for the guidance of Mr. Trescot were outlined.

Where Secretary Blaine was mistaken in his otherwise able resumé of events for Trescot was with respect to the seizure by Chile of Provisional President Calderón, which act appeared as an affront to the United States. As soon as Mr. Hurlbut had backed Calderón the followers of former President Piérola began to fall away. In October the Department of Arequipa, next in importance to Lima, declared in favor of Calderón; Admiral Lizardo Montero who commanded the remnants of the armies of the south as well as General Andrés Cáceres of the center declared for Calderón; accordingly Sr. Piérola issued a decree on November 28 abdicating the presidency. Whereupon the strength of Calderón grew rapidly.

He had been allowed by Chile to borrow money from the Bank of Mexico, Peru and London, and had issued 8,000,000 pesos of paper money. Two or three countries besides the United States recognized him and his government began to assume sovereign functions. It was with some surprise therefore that Secretary Blaine learned that on September 26 Chilean officers seized the Calderón treasury and forbade him to collect taxes. Soon after came a report that the provisional president was planning to give the United States a mandate over the country and Chilean officers ruthlessly searched his house and family for the treaty which they supposed was being drawn up. An order was then issued by the Chilean commander, Admiral Lynch, requiring President Calderón to cease his functions and surrender his archives.⁶⁰ Upon the advice of Mr. Hurlbut, Calderón refused and he sent his archives to the United States legation. Acting upon advice from the same source, a quiet session of his congress elected a vice president, Admiral Montero, so that the

⁶⁰ Caivano, *Tomás, Guerra de América*, Chapter VII.

government would have legal succession in case of accident to President Calderón.

It was a military and financial necessity for Chile to have Sr. Calderón removed so he was imprisoned on board a warship. If strong governments recognized him the very profitable indefinite occupation by Chile might be interrupted; the Lynch-North-Jamison contract for the sale of 40,000 tons of guano at over two pounds sterling a ton might be broken; the port of Callao was yielding over a half million pesos a month indemnity; and the paper money with which Calderón was paying war contributions was deflated. Admiral Lynch was remitting ship loads of plunder from Peru to Chile and his diary contains curious inventories of animals from the Lima zoo, plants from the botanical gardens, and statuary. The war fever had not yet sufficiently abated and the guano importers as well as the Chilean government were not ready for peace at the time that Secretary Blaine sent his special mission, a part of whose instructions follows. *Senate Documents*, 47th Congress, 1st Session, Vol. IV, Doc. 79, pp. 176-179.

* * * * *

As soon as these facts indicated the possibility of a real and independent vitality in the constitution of the Calderón government the Chilean military authorities issued an order forbidding any exercise of its functions within the territory occupied by the Chilean army—that is, within the entire territory west of the mountains, including the capital and ports of Peru.

Unable to understand this sudden and, giving due regard to the professions of Chili, this unaccountable change of policy, this government instructed its minister at Lima to continue to recognize the Calderon government until more complete information would enable it to send further instructions. If our present information is correct, immediately upon the receipt of this communication they arrested President Calderón, and thus, as far as was in their power, extinguished his government. The President does not now insist upon the inference which this action would warrant. He hopes that there is some explanation which will relieve him from the painful impression that it was taken in resentful reply to the continued recognition of the Calderon government by the United States. If, unfortunately, he should be mistaken, and such a motive be avowed, your duty will be a brief one. You will say to the Chilean Government that the president considers such a proceeding as an intentional and unwarranted offense, and that you will communicate such an avowal to the Government of the United States, with the assurance that it will be regarded by the government as an act of such unfriendly import as to require the immediate suspension of all diplomatic intercourse. You will inform me immediately of

the happening of such a contingency and instructions will be sent you.

But I do not anticipate such an occurrence. From the information before the Department, of which you are possessed, it is more probable that this course will be explained by an allegation that the conduct and language of the United States minister in Peru had encouraged the Calderon government to such resistance of the wishes of Chili as to render the negotiation of a satisfactory treaty of peace with the Calderon government impossible. Any explanation which relieves this action of the Chilian Government of the character of an intentional offense will be received by you to that extent, provided it does not require as a condition precedent the disavowal of Mr. Hurlbut. Whatever may be my opinion as to the discretion of all that may have been said or done by Mr. Hurlbut, it is impossible for me to recognize the right of the Chilian Government to take such action without submitting to the consideration of this government any cause of complaint which it was prepared to allege against the proceedings of the representative of the United States. The Chilian Government was in possession of the instructions sent to that minister, as well as those to his colleague at Santiago. There was no pretense that the conduct of General Kilpatrick was anything but friendly. Chili was represented here by a minister who enjoyed the confidence of his government, and nothing can justify the assumption that the United States was acting a double part in its relations to the two countries. If the conduct of the United States minister seemed inconsistent with what Chili had every reason to know was the friendly intention of the United States, a courteous representation through the Chilian minister here would have enabled this government promptly to correct or confirm him. You are not therefore authorized to make to the Chilian Government any explanation of the conduct of General Hurlbut, if that government, not having afforded us the opportunity of accepting or disavowing his conduct, insists upon making its interpretation of his proceedings the justification of its recent action.

* * * * *

Should the Chilian Government, while disclaiming any intention of offense, maintain its right to settle its difficulties with Peru without the friendly intervention of other powers, and refuse to allow the formation of any government in Peru which does not pledge its

consent to the cession of Peruvian territory, it will be your duty, in language as strong as is consistent with the respect due an independent power, to express the disappointment and dissatisfaction felt by the United States at such a deplorable policy.

You will say that this government recognizes without reserve the right of Chili to adequate indemnity for the cost of the war, and a sufficient guarantee that it will not again be subjected to hostile demonstration from Peru; and further, that if Peru is unable or unwilling to furnish such indemnity, the right of conquest has put it in the power of Chili to supply them, and the reasonable exercise of that right, however much its necessity may be regretted, is not ground of legitimate complaint on the part of other powers. But this government feels that the exercise of the right of absolute conquest is dangerous to the best interests of all the republics of this continent; that from it are certain to spring other wars and political disturbances; and that it imposes, even upon the conqueror, burdens which are scarcely compensated by the apparent increase of strength which it gives. This government also holds that between two independent nations, hostilities do not, from the mere existence of war, confer the right of conquest until the failure to furnish the indemnity and guarantee which can be rightfully demanded.

The United States maintains, therefore, that Peru has the right to demand that an opportunity should be allowed her to find such indemnity and guarantee. Nor can this government admit that a cession of territory can be property exacted far exceeding in value the amplest estimate of a reasonable indemnity.

Already, by force of its occupation, the Chilian Government has collected great sums from Peru; and it has been openly and officially asserted in the Chilian Congress that these military impositions have furnished a surplus beyond the cost of maintaining its armies in that occupation. The annexation of Tarapacá, which, under proper administration, would produce annually a sum sufficient to pay a large indemnity, seems to us to be not consistent with the execution of justice.

The practical prohibition of the formation of a stable government in Peru, and the absolute appropriation of its most valuable territory, is simply the extinction of a State which has formed part of the system of republics on this continent, honorable in the traditions and illustrious of its past history, and rich in the resources for future progress. The United States, with which Peru has for

many years maintained the most cordial relations, has the right to feel and express a deep interest in its distressed condition; and while with equal friendliness to Chili, we will not interpose to deprive her of the fair advantages of military success, nor put any obstacle to the attainment of future security, we cannot regard with unconcern the destruction of Peruvian nationality. If our good offices are rejected, and this policy of the absorption of an independent state be persisted in, this government will consider itself discharged from any further obligation to be influenced in its action by the position which Chili has assumed, and will hold itself free to appeal to the other republics of this continent to join it in an effort to avert consequences which cannot be confined to Chili and Peru, but which threaten with extremest danger the political institutions, the peaceful progress, and the liberal civilization of all America.

If, however, none of these embarrassing obstacles supervene, and Chili receives in a friendly spirit the representations of the United States, it will be your purpose—

First. To concert such measures as will enable Peru to establish a regular government, and initiate negotiation.

Second. To induce Chili to consent to such negotiation without cession of territory as a condition precedent.

Third. To impress upon Chili that in such negotiation she ought to allow Peru a fair opportunity to provide for a reasonable indemnity; and, in this connection, to let it be understood that the United States would consider the imposition of an extravagant indemnity, so as to make the cession of territory necessary in satisfaction, as more than is justified by the actual cost of the war, and as a solution threatening renewed difficulty between the two countries.

As it is probable that some time will elapse before the completion of all the arrangements necessary for a final negotiation, this government would suggest a temporary convention, which, recognizing the spirit of our present friendly representation, would bring Peru and Chili into amicable conference and provide for a meeting of plenipotentiaries to negotiate a permanent treaty of peace.

If negotiation be assured, the ability of Peru to furnish the indemnity will be a matter of direct interest. Upon this subject we have no information upon which definite instructions can now be based. While you will carefully abstain from any interposition

in this connection, you will examine and report to this Department promptly any plans which may be suggested.

You will not indicate any wish that the Government of the United States should act as umpire in the adjudication between the contending powers. Should an invitation to that effect be extended, you will communicate by telegraph for instructions. The single and simple desire of this government is to see a just and honorable peace at the earliest day practicable, and if any other American government can more effectively aid in producing this auspicious result, the United States will cordially sustain it and lend such co-operation as the circumstances may demand.

I am, &c.,

James G. Blaine

No. 74. CABLEGRAM FROM CHILEAN LEGATION IN WASHINGTON ON THE CHANGE OF POLICY BY
SECRETARY FRELINGHUYSEN

January, 1882

INTRODUCTION AND SOURCE.—When Mr. Trescot arrived in South America he found a difficult situation. The Calderón government at best was only provisional and allowed to exist by the Chilean army in a small neutral zone. Generals Cáceras and Montero and other Peruvian leaders held out, spurred on by the hope of intervention by the United States. President Calderón issued a statement saying that he would not cede territory. Due to this reason and to his increasing power which threatened Chilean military and financial plans he was seized and made a prisoner on board a Chilean warship. This action had caused Secretary Blaine to ask an explanation from Chile. He believed it was intended as an affront to the United States instead of a financial move as it was. The nitrate buyers were cautious fearing that at any time "the provisional government would become well established and arrange peace."

Not only was the mission of Trescot difficult but Secretary Blaine found his own power crumbling and his South American policy assailed. The political opponents of Blaine had seized on the financial scandal which the activities of Shipherd suggested and sought to show that the intervention of the United States was to be turned to profit for officials high in government.⁶¹ In particular the New York papers attacked the South American policy of Secretary Blaine and no effort was spared to injure his reputation. The matter came to a head in Congress. The Senate and House requested the President to communicate to them all correspondence of our diplomatic agents in Peru and Chile. At the death of President Garfield and the coming of Arthur to the presidency Secretary Blaine found himself working with a cautious

⁶¹ For Shipherd's activities see *supra*, Doc. 68, introduction.

and vacillating executive and menaced by a Congressional investigation of his department.⁶² Confident that no tarnish would be found on his record and that history would vindicate his policies he resigned.

Peru, with its provisional president imprisoned and its leaders scattered into three main camps, found itself at the mercy of an unrelenting conqueror, which could accept nothing less than the cession of Tarapacá as a *sine qua non* for peace discussions. Argentina had ratified the treaty of boundaries with Chile, due to the good offices of the United States, and no help could come from that source.

Blaine was superseded by Frederick T. Frelinghuysen on January 1, 1882, and instructions of Trescot were changed before he arrived at his post. A telegram started after the envoy on January 3 urged him to exert "pacific influence" and to avoid any issue leading to withdrawal from Chile. The next day another message was started saying the president wished to extend friendly offices impartially to both countries,⁶³ to avoid issues leading to offense, and that the Calderón affront would be explained in Washington.

This sudden change of policy by Secretary Frelinghuysen became known immediately to the Chilean Minister in Washington, M. Martínez. The Peruvian Minister did not learn of it for three months and Minister Trescot until January 31 when he learned it from the Chilean Minister of State. Minister Martínez had sent a cablegram via Paris while Secretary Frelinghuysen had sent his telegram to Panama to be forwarded from there to Chile by boat. The promptness with which this information was secured and cabled to Chile is one of the best examples of Chilean diplomacy during the war. The cablegram is translated from Tomás Caivano, *Historia de la Guerra de América*, p. 162.

Instructions Blaine to Trescot published. They ask explanation of suppression of Calderón; I gave them here. Frelinghuysen says in writing he is satisfied. The latter(este) in new instructions to Trescot, very favorable, revokes instructions of Blaine relative using interventionistic good offices. He orders him to limit himself to friendly suggestions in neutral attitude, saying not to be offended if Chile refuses. Doesn't dictate nor promote peace. Doesn't question our justice nor consider exigencies nor offer terms nor consider alterations of frontiers nor who shall be president of Peru. He decided not to call the American [Pan American] Congress—M.

⁶² Testimony of witnesses and findings of the Committee are found in *House Reports*, 47th Congress, 1st Session, Vol. VI, Report No. 1790.

⁶³ Richardson, James D., *Messages and Papers of the Presidents*, Vol. VIII, p. 40. (Arthur's message.)

No. 75. REPORT OF SPECIAL ENVOY WILLIAM HENRY TRESCOT

February 3, 1882

INTRODUCTION AND SOURCE.—It is difficult to understand how the Secretary of State could have failed to have availed himself of the quickest means of advising his envoy of his change of policy and how quickly that change was known in Chile. Mr. Trescot began to carry out his first instructions before receiving the modifications sent while he was enroute. He had secured explanations of the Calderón affairs, of the tampering with the mail of our minister, and had treated the Kilpatrick veracity question. His remaining instructions dealt with insisting on no territorial indemnities and milder peace terms. He was pressing these matters when he received a diplomatic humiliation which does little credit to Secretary Frelinghuysen. His report follows and in it the telegram referred to is that of the previous document, No. 74. *Executive Documents*, 47th Congress, 2nd Session, Vol. 1, pp. 67, 69.

No. 8.]

Special Mission of the United States in South America

Viña del Mar Chili, Feb. 3, 1882

SIR: Referring to my dispatch, number seven, I have to inform you that after mailing it I received a letter from Mr. Hurlbut, saying that he had already extended the invitation of the President to the Government of Peru to attend the proposed congress in Washington.

This action, of which I had been so apprehensive, rendered it necessary that the invitation should also be extended to Chili, for I had no doubt that the fact would be published in the Lima papers. And by the last mail from Lima, I find that not only the fact but the invitation in full has been published.

I therefore wrote to Mr. Adams, at La Paz, and to Mr. [Walker] Blaine, who is *chargé d'affaires* here, to say that I desired them to consider my request for delay in the presentation of the invitation as now withdrawn. These letters, with one to Mr. Hurlbut in reply to his information, will be found in inclosures numbered 1, 2, and 3.

As an interview with the secretary for foreign affairs had been appointed for Tuesday last (January 31), Mr. Blaine accompanied me, in order to read the invitation in conformity with his instructions.

Our interview had been arranged for the purpose of comparing our respective drafts of a protocol summarizing the substance of our former confidential conferences, a proceeding to which the secretary seemed to attach considerable importance. After reading

over Mr. Balmaceda's draft in Spanish, and receiving a copy for more careful consideration, I explained to him the purpose of Mr. Blaine's visit. To my great surprise, he expressed the wish that Mr. Blaine would not read the communication, and then, turning to me, he said, "It is useless. Your government has withdrawn the invitation." Seeing, I suppose, an expression of astonishment, which I did not pretend to conceal, he added, "Your own instructions have been changed. Your instructions from Mr. Blaine have been published, and others are on their way to you modifying your original instructions in very important particulars. The whole question about Calderon is out of the way, and you are told to be entirely neutral."

I replied, "I do not understand that there is any such thing as a Calderón question between us," and then said, "Do you mean, Mr. Secretary, that both my original instructions and the instructions from the present administration are published?"

He said, "Yes, before you have received them I have a telegram, not in cipher, but open," to which I replied that I supposed so, because I could not see the use of a cipher dispatch in referring to papers already published.

He added, "Yes, they have been published, and will be soon published here in *La Patria*" (a newspaper). He then went out of the room and returned with a telegram, which, he said, had come from Paris only two days before, and of which he read me the first line, which, as I recollect it, was, "The Blaine-Trescott instruction has been published," and then paused, smiling and looking over the telegram, as if he were uncertain whether he should communicate the rest. I said, "As you say that all this is confidential, don't make a half confidence of it. If I am to receive my instructions through you let me know them in full." He smiled, shook his head, and folded up the telegram, saying, "This, however, will not interrupt our negotiation," and then proceeded, at some length, to state why and to explain what he considered the advantages of the condition of things under the new instructions.

I said to him, "That may all be so, Mr. Secretary, but I think that a diplomatist of ordinary experience would conclude, when he learns that his instructions have been communicated to the government with which he is negotiating, before he receives them himself, that it is time for him to be silent until he does receive them. I think there must be some mistake about all this, but at any

I must decline to say a word more until I learn from my government what it has done and what it means me to do."

He said that he hoped that I would receive my instructions very soon; that the position was strained and could not be maintained for an indefinite time, that is, Chili could not wait much longer for the United States to decide what action it would take, and then, for the first time in our conferences, his manner became excited and his language somewhat too demonstrative. "Since you have been here," he added, "two occurrences have taken place which I am sure are disagreeable to you as they are to Chili. Mr. Hurlbut has refused to consent to the export of certain goods from the blockaded port of Mollendo, unless we will consent to the import of coal, an article contraband of war, for the use of the railroad, and although we have a right to disregard his refusal, we have not done so. And secondly, Mr. Adams, in Bolivia, has addressed a letter to the government at La Paz, advising them of your mission, and endeavoring to induce them not to make a separate peace before Peru has effected some arrangement, and I do not know how long Chili can bear such interference."

I said, "Mr. Secretary, the facts which you state are grave, so grave that even in the most confidential conversation I will not express an opinion unless you communicate them to me officially; then I will meet the questions you raise."

He said, "I have no intention of doing so; I did not even intend to draw a confidential answer from you."

There the interview ended.

* * * * *

You will observe that these facts, if correct, furnish ground for a very different estimate of Mr. Hurlbut's action than that made by the secretary for foreign affairs. But as I had no official information, either from Mr. Hurlbut or from the Chilian Government, I deemed it injudicious to enter upon any confidential discussion of the subject.

As to Mr. Adams there has been a general impression here that Bolivia had consented or would consent to a separate peace with Chili, by which, in exchange for her littoral territory upon the Pacific, she would be indemnified by some cession of Peruvian territory. When Mr. Adams returned to La Paz he communicated the purpose of the special mission to the government, and did, I believe, succeed in inducing them to suspend any such action until

it could be ascertained if the good offices of the United States could effect a general and satisfactory solution. In this I conceive that Mr. Adams was only acting in the line of his duty, but I did not deem it proper to discuss it in a confidential or informal way, for reasons which I think will be obvious to you.

Having thus given you a concise account of the interview, you will allow me to express the hope that my conduct will be approved. My original instructions were in the alternative, and if I failed to obtain such a settlement as the President deemed he had a right to expect, I was directed to take certain action, which could not have been agreeable to the Chilian Government. I could not suppose that such an instruction would be made public while I was endeavoring to secure, and not without some hope of success, the amicable solution of this delicate and difficult question. Still less could I believe that if my original instructions had been seriously modified any communication of such change would have been made to the public, or even confidentially to the Chilian Government, before I could possibly have received it. I could not admit, what the Secretary's conversation clearly implied, that I did not represent the wishes or intention of my government, and that he was better instructed than myself as to the purposes of my mission.

But as his language and action were evidently based upon his confident knowledge of these supposed instructions, any further conference with him was useless until I heard from the Department.

As both the telegram which I received upon my arrival at Valparaiso, and that of the 10th of January, which reached me only on the 31st ultimo, the translations of which are herewith inclosed, indicated the propriety of very great caution in the execution of my original instructions, and as my telegram of January 23, stating the terms upon which Chili would accept the good offices of the United States, and a reply to which was absolutely necessary for any further negotiation, has not yet been answered, I have determined to do nothing whatever until the receipt of instructions from the government.

I have, &c.,

Wm. Henry Trescot

No. 76. PROTOCOL OF VINA DEL MAR

February 11, 1882

INTRODUCTION AND SOURCE.—As a result of the efforts of Minister Trescot the following protocol was signed at Viña Del Mar, a summer place near Santiago. It was not approved by the United States, but it shows how free Chile was after this date from any intervention that might have resulted from the Trescot mission. *Executive Documents*, 47th Congress, 2nd Session, Vol. I, pp. 83, 84.

At several conferences held in the department of foreign relations at Santiago, on the 16th, 19th, and 20th days of January of the present year, 1882, Mr. William Henry Trescot, special envoy extraordinary and minister plenipotentiary of the United States of America, and Mr. José Manuel Balmaceda, minister of foreign relations of the Republic of Chili, discussed in a frank and confidential manner the relations of the United States with Chili and Peru, and of the two last-named nations with one another, exchanging their views in terms reciprocally friendly, and mutually agreed to draw up in this single protocol the conclusions which they reached in the aforesaid conference.

First. Mr. Trescot having stated that the United States recognized the government of García Calderón on account of friendship towards the contestants and in the interest of peace, and that the government of his country, being the only one which has recognized the aforesaid government by accrediting a representative near to it, might suppose that the arrest of García Calderón was an act of offense to the United States; and Mr. Balmaceda having said that Chili abolished the authority of García Calderón within the radius occupied by her forces, and arrested him with no purpose of offense to the United States or any other neutral power, and making use of her legitimate belligerent rights, there was no necessity for further discussion of this incident.

Second. The armed intervention of the United States in the war which Chili is carrying on with Peru would not be a diplomatic proceeding of the nature of that which is to-day exercised by Mr. Trescot, nor in consequence would it correspond to the friendly spirit of his mission; and mediation does not conform to the convenience of the belligerents, nor is it solicited by Chili. The United States eliminates from all discussion the possibility of armed intervention, and would offer mediation only in case that the belliger-

ents showed a desire to obtain it, and when its acceptance would lead to results satisfactory to both belligerents.

Third. The incident of the arrest of García Calderón, the armed intervention and the mediation of the United States, being points eliminated from all discussion and definitely concluded, Chili declares that, as a mark of mutual friendship and confidence, she would accept, if they should be offered, the good offices of the United States in the contest with Peru, provided that the United States, in the exercise of its good offices, accepts the conditions of peace which Chili would be disposed to concede to the enemy; and with the understanding that, if the United States should not obtain the consent of Peru to the conditions of peace, which serve as the basis of its good offices, in that case the action of the United States between the two belligerents should terminate.

Fourth. If the good offices of the United States shall be offered and accepted in the manner heretofore set forth, Chili would give, through her civil and military authorities, every possible facility to Mr. Trescott for communicating with any Peruvian authority or persons to whom he may judge fit to offer his good offices, with the exception of García Calderón, who is a prisoner of war.

Fifth. The bases in conformity to which Chili will make peace, reserving to herself every right and entire liberty of action, if they should not be accepted by Peru, are as follows:

1st. Cession to Chili of all the territory of Peru situated to the south of the Quebrada de Camarones.

2d. Occupation of the region of Tacna and Arica for ten years, Peru being obliged to pay twenty millions of pesos at the expiration of that time. If at the expiration of that time Peru should not pay to Chili the twenty millions of pesos, the territory of Tacna and Arica should remain, *ipso facto*, ceded to and incorporated in the territories of the Republic of Chili. Peru may fix in the treaty of peace a time longer than ten years, in conformity with the conditions just before stated. If Arica returns to the power of Peru, it shall remain forever unfortified.

3d. Chili shall occupy the islands of Lobos, so long as there shall be guano upon them, and both the net product of the guano taken from them and that from the mines discovered and being worked in Tarapacá shall be equally divided between Chili and the creditors of Peru.

Finally, Mr. Trescott deemed it necessary to telegraph to his

government, and await a reply, in order to state whether he can offer to Chili the good offices of the United States in the manner and conditions herein stated.

In testimony of which the special envoy extraordinary and minister plenipotentiary of the United States of America, and the minister of foreign relations of Chili, have signed and sealed the present protocol, in duplicate, and in the Spanish and English languages, in Viña del Mar, the eleventh day of the month of February, in the year one thousand eight hundred and eighty-two.

William Henry Trescot
J. M. Balmaceda

NO. 77. LETTER OF FEDERICO ELMORE ON THE DEATH OF GARFIELD

June 30, 1882

INTRODUCTION AND SOURCE.—The failure of the fourth attempt of the United States to mediate in this question has been given many interpretations by South American writers. It has been termed everything from impertinent officiousness to well-meaning blundering. The most charitable appreciation of it and of the cause of the failure was expressed by Federico Elmore, the Peruvian minister in Washington in 1882, parts of which are given below.

It should be remembered that as soon as Secretary Frelinghuysen entered upon the duties of his office he also abandoned the plan for an American congress originated by Secretary Blaine. He said it was untimely and might cause jealousies in Europe and implied that it was merely the idea of Secretary Blaine. Ex-Secretary Blaine came out in a vigorous open letter to the President defending his Latin American policy.⁶⁴ He said that both presidents Garfield and Arthur had read and approved the invitations. Much of the opposition to Mr. Blaine was the result of the politics of the period, echoes of the Blaine-Conkling feud. The congressional committee not only gave him a clean bill, but twenty-three petitions were introduced in Congress during the summer requesting closer relations with South America.⁶⁵

Mr. Elmore's statement is remarkably correct and prophetic for it is not probable that there would be a Tacna-Arica question to-day had Garfield lived to complete his term, or two terms.

Tomás Caivano, *Historia de la Guerra de América*, p. 160.

To-day at 12:30 p. m. there was executed in the capital Charles J. Guiteau, the assassin of President Garfield . . . thus has this perverse man expiated his crime.

⁶⁴ *New York Tribune*, February 4, 1882.

⁶⁵ Wilgus, A. Curtis, "James G. Blaine and the Pan American Movement," *Hispanic-American Historical Review*, Vol. V, p. 679.

I was, on July 2nd, 1881, on board the boat that was to convey Minister Hurlbut from New York to Colón to take leave of him, when the news was received by telegraph of this atrocious and unexpected crime. We entertained the deepest hopes that the mission of General Hurlbut would save Peru, putting a prompt and honorable end to the iniquitous war that Chile wages against us. The assault of July 2nd destroyed a great administration, demoralized the chief secretary of the cabinet, Blaine, who lost his place, and to conserve it and himself, adopted a hesitating policy, not knowing how to save Minister Hurlbut, (trying to sustain himself)⁶⁶; and after a year of the most extraordinary events and no little humiliation for the United States we are convinced that the greatest damage caused by the ball of Guiteau (next to that done the family of the noble victim) has been to the Peruvian Republic.

NO. 78. DISPATCH OF MINISTER C. A. LOGAN SUMMARIZING HIS PEACE EFFORTS

October 18, 1882

INTRODUCTION AND SOURCE.—Two days after the signing of the Protocol of Viña Del Mar Minister Trescot received instructions showing that the United States would not approve it, and so advised Señor Balmaceda. From that date the efforts of the United States had none of the interventionistic quality which had characterized them previously and Chile had a free hand in reaping whatever results of her victories she chose. On March 8 the official Chilean newspaper carried a denial of Kilpatrick's statements which had been made public by the congressional investigation.

The Chilean government had to make its peace with the victory-mad public. Mr. Kilpatrick understood Spanish perfectly and Senator Huneens the spokesman for Chile knew English well so there is little doubt as to the accuracy of Kilpatrick's statement that Chile promised not to exact territory as a *sine quo non* of peace discussion. The explanation is that the statements were so worded that each understood that the result would be as interpreted. The promise had been made conditioned on Peru's being able to pay other indemnity, "satisfactory to Chile."

Minister Trescot returned to Washington and stated in his report: "If the United States has the intention of intervening effectively to prevent the disintegration of Peru, now is the time to declare so openly. If it hasn't this intention it is even more necessary that Chile and Peru know exactly where the action of the United States ends." He said that if the United States would withdraw its efforts European powers would intervene effectively and establish peace.

The whole difficulty was that the United States had no policy of interven-

⁶⁶ (*por tratar de sostenerse á sí mismo.*)

tion in Latin America for mere justice. Blaine had a policy, but a democracy can have no continuing foreign policy without public information and sentiment on the subject. Then all we were certain about was that the matter should be kept from European intervention.

Shortly after the death of General Kilpatrick in Santiago General Hurlbut died suddenly in Lima so the United States was soon represented by new men. James Partridge was sent to Lima, and Dr. Cornelius A. Logan was named for the post at Santiago.

For a year the latter labored hard to bring about peace, acting as a medium of exchange of views and proposals, several of which proposals he urged upon the belligerents. He was asked by the Chilean ministry to give a summary of his negotiations. It is not probable that this information was requested for the purpose of supplying any missing records in the Chilean archives, but to sound the probable attitude of the United States on terms of peace. It is in the summary of these negotiations that one may see that the two main points of contention were the settlement of foreign indebtedness and the disposition of Tacna and Arica.

Dr. Logan's statement is from *Senate Executive Documents*, 48th Congress, 1st Session, Vol. I, No. 1, Pt. 1, pp. 77-79.

Legation of the United States

Santiago, October 18, 1882

SIR: I have the honor to acknowledge the receipt of your excellency's esteemed note of yesterday, requesting me to furnish you a brief statement of the various attempts to agree upon a basis of terms for a treaty of peace between Chili and Peru.

In reply I beg leave to assure you of the pleasure it will afford me to give you a short history of the negotiations referred to.

At the interview held with your excellency after the interchange of notes under date of September 9 ultimo, I stated to you that, as my Government could not feel that the terms of the protocol of Viña del Mar were such as it could recommend Peru to accept, I was anxious that some substantial modification of those terms might be made, in order that my Government could be able to use its good offices in bringing about a peace between its friends. After further consultation, you said that the demands of Chili would be reduced practically to three conditions: first, the cession of Tarapacá; second, the right to purchase the district of Tacna and Arica for a nominal sum of money; and, third, the right to control the sale of guano advertised for the 18th of October. You further said that these conditions were absolute and final.

I then had a conference with Señor Calderón, to ascertain what his views would be upon these conditions. This gentleman said that without some authoritative expression from his people he did

not feel at liberty to agree to any peace upon the basis of a cession of territory. He desired a truce of three years, during which time the opinions of the Peruvians might be unified and a line of action clearly defined. I presented this request for a truce to your excellency, who immediately declined to entertain the proposition. I then requested permission to allow Señor Calderón to go to Peru for a short time, in order to consult his people upon making a peace upon the terms proposed by your excellency. It was not deemed expedient to grant this request. I then asked that he be permitted to go to Angol, where a number of prominent Peruvians are domiciled, and offered to accompany him in person. This permission was granted, and our voyage to that place was facilitated by your excellency.

At Angol we had long consultations with Señor Calderon's friends, and a conclusion was arrived at which rendered me entirely confident that Señor Calderon would be able to comply with the requirements of your excellency's Government.

Soon after our return to Santiago, my understanding is, that Señor Calderon received advices directly from his people in Peru, which seemed positively to prohibit his making an agreement to sell the territory of Tacna and Arica, though he felt fully authorized to consent to the cession of Tarapacá. In consequence of these advices Señor Calderon has steadily refused since that time to consent to a direct sale of the territory alluded to.

This decided opposition of the parties has given rise to the various efforts at a compromise. These efforts have been made upon the basis of several proposals, mostly originated by myself, and may briefly be enumerated as follows:

First. In order to remove the difficulty regarding the sale of Tacna and Arica, I proposed a treaty on the basis of ceding Tarapacá, with a separate article presenting the question of Tacna and Arica, to the Peruvian Congress for its own decision, without any recommendation from Señor Calderon. This proposal was declined, both by your excellency and Señor Calderon.

Second. I proposed to make the river Azufre the boundary line, giving Arica to Chili and Tacna to Peru. This proposal was not accepted by either party.

Third. This suggestion came from your excellency's Government, and was made into a formal proposal by myself. Owing to a mistake of my own, as to one of the conditions, the proposition

was first made to Señor Calderon as follows: Chili to have military occupation of Tacna and Arica for five years, at the end of which time a vote to be taken by the people of the territory to determine whether they would attach it to Chili or to Peru. If the vote took the territory to Chili, the latter was to pay Peru \$10,000,000 in compensation. Chili was to pay Peru \$3,000,000 as a loan, upon the ratification of the treaty, and if Chili afterwards obtained the territory by a vote of the people thereof, this amount was to be deducted, leaving Chili seven millions still to pay. If the territory went to Peru, the latter was to repay the three millions with 6 per cent. interest, and Chili was to retain possession of the territory until the whole amount was paid.

The mistake made by me above referred to, was that your excellency's Government, while being willing to pay \$10,000,000 for the territory, if voted Chili, also expected to receive \$10,000,000, if voted to Peru.

Señor Calderon, however, refused the proposal in its more favorable form, and it was useless to present it to him in the other form, even if I had felt authorized to commit my own Government to it in that shape.

Fourth. I proposed to Señor Calderon that Chili should have military occupation of Tacna and Arica for ten years, and then evacuate it. He declined this, and it was not presented to your excellency.

Fifth: I proposed to submit the following question to the President of the United States, in the capacity of a friendly arbitrator:

"Shall the Chilian Government as a measure growing out of the necessities and manner of settlement of the war have the right to purchase the Peruvian territory lying between the river Camarones and the river Sama, for the sum of \$9,000,000, with the stipulation that Bolivia shall be given the perpetual right to the free and innocent passage over said territory, with perpetual freedom from export and import duties, upon the conclusion of a satisfactory treaty between the latter Republic and the Republic of Chili?"

Señor Calderon accepted this proposal, but your excellency declined it, chiefly for two reasons: firstly, because to refer such a question at this time to a foreign ruler would be practically to place the results of the war in the hands of a foreign state, which would be an infringement upon the sovereignty of Chili; and secondly, because to admit the possibility of a decision against Chili, would

be to yield all claim upon the district in question, a claim which she has constantly made since the conference of Arica.

Sixth. I then proposed to Señor Calderon that Tacna and Arica should be ceded to Bolivia. This proposal he declined, and it was not presented, therefore, to your excellency.

Seventh. I then proposed that the following question be submitted, *not* to the head of a foreign Government, but to a diplomatic representative friendly to both parties, who should simply be regarded in the light of an impartial referee:

"Shall Chili have the right to purchase the territory embracing Tacna and Arica for \$9,000,000, or shall she have military occupation of the said territory for a period of fifteen years, being obliged to evacuate it at the expiration of that period?"

As this proposition removed your excellency's objection to a foreign ruler, and also secures either the purchase of the territory or its occupation for fifteen years, your excellency consented to accept it, in substance, as the basis of a negotiation. Señor Calderón also consented to it, and I rejoiced in the belief that we were to have peace at last.

When we came to the arrangement of details of procedure, Señor Calderon made certain stipulation to the effect, first, that a clause should be inserted in the treaty, that Chili should pay all of the legitimate debts of Tarapacá, and "make arrangements conducing to a compliance with the contracts of the Peruvian creditors"; secondly, he proposed making a protocol with the American minister at Santiago, setting forth the terms of the agreement, after which he was to be put in liberty and proceed to Arequipa; he was then to assume direction of his Government, and nominate a plenipotentiary in Lima, to sign with the Chilean representative a truce for six months; thirdly, after the signing of the truce an election was to be held in Peru for members to a new Congress, to deliberate upon the proposed terms of peace, which, if ratified by the Congress, were to be embodied in a formal treaty to be signed by authorized plenipotentiaries on both sides, at Lima; fourthly, in case of non-ratification by the Congress, notice thereof to be given to Chili, who might resume hostilities thirty days after receiving it.

In defense of these stipulations, Señor Calderon urged that Arequipa was the capital of Peru, and that he would have to observe the form of again assuming direction of the Government; that to hold the Congress in Lima would be to place it under the military

control of a foreign power, and that he himself would be as much a prisoner in Lima as in Santiago. In order to act freely they must all be outside the Chilean lines. He also claimed that six months was a very short time in which to hold an election, &c.

Your excellency declined all these stipulations. First. You said that there was no need to make any stipulation in the treaty concerning the Peruvian debt, as the responsibility of your Government was fixed by law and by the guano decree of February last, under which \$240,000,000 of that indebtedness had been arranged for with the bondholders. Second. That instead of going to Arequipa, Señor Calderón must proceed to Lima, sign a preliminary treaty, convoke the Magdalena legislature, and in forty-five days confirm or reject the treaty. Your excellency proposed withdrawing the Chilean troops temporarily to Callao in order to leave Lima free to the legislature. Third. Your excellency declined a truce of six months, as it would lose to Chile the advantage of her present situation and expose her troops to the attacks of guerrillas, who would not respect any truce.

In the discussion which followed neither your excellency nor Señor Calderón felt disposed to recede from the position taken, and the promised peace failed.

I believe I have given the substantial facts of the case in the foregoing statement, though if I have made any error I shall be glad to have your excellency correct it.

I embrace, &c.,

C. A. Logan

NO. 79. LETTER OF DR. LOGAN TO VICE PRESIDENT MONTERO

November 13, 1882

INTRODUCTION AND SOURCE.—At the close of 1882 Calderón was a prisoner in southern Chile, Vice President Montero had some following at Arequipa, and General Andrés Cáceres had a formidable group, mostly of Indians, in the center where he was disposed to continue the war. In the north followers of General Manuel Iglesias favored peace with Chile even at great loss in order to secure the withdrawal of the army of occupation.

It may be only a coincidence or it may not be, but the date on which Dr. Logan furnished the Chilean government with a summary of his peace efforts, a contract was made for the sale of 1,000,000 tons of guano from the Peruvian Islands. Bids had been advertised for since August and many had been received, but the contract was not signed until the day that Dr. Logan's statement showed the attitude of the United States in the peace question. There was some surprise at the successful bid and the persons making it, but there

was a good guarantee given and it was supposed that Dreyfus & Co. were the real contractors.

Some Peruvian writers have denounced Dr. Logan as being the unwitting tool of the Chilean government and have considered the following letter to Vice President Montero officious and cold blooded. While he did not know of the guano contract made the day of his report he did know much of the war aims of Chile. Moreover he knew that Bolivia was about to sign a separate peace and he believed that once it was signed Chile would exact even harsher terms and that it was imperative to close negotiations immediately by accepting the bases he suggested. His comparison of the proposed sale of Tacna-Arica to the purchase by the United States of territories captured from Mexico was lacking in analogy, for Tacna-Arica was purely Peruvian in population and well beyond the reach of the stream of Chilean colonization. *Executive Documents*, 48th Congress, 1st Session, Vol. I, No. 1, Pt. 1, pp. 86, 87.

(unofficial)

LEGATION OF THE UNITED STATES

Santiago, November 13, 1883

Sir: I ask the privilege to waive the usual diplomatic formality, and address your excellency directly upon the subject which must now be uppermost in the minds of all Peruvians, viz, that of peace.

Your excellency is doubtless aware that since my arrival in Chile I have been endeavoring to bring about a recognition of your Government and the arrangement of terms of peace between Peru and Chile. Difficulties which seem almost insurmountable have up to this time prevented the realization of my desires.

The present situation may be briefly stated thus: Chili, as the result of my mediation, has abandoned the demands of the Trescot protocol, and has consented to make peace upon the following terms: First, absolute cession of Taparacá as war indemnity, Chili to pay all of the debts of the province legitimately following it under the provisions of international law, although she refuses to make any particular stipulation to that effect, as, being already committed to it by various public declarations, she does not deem it necessary. Second, the acquisition of Tacna and Arica by purchase for the sum of \$10,000,000, to be paid in three equal annual installments.

Chili has been willing to treat with his excellency Señor Calderón upon these terms, and to recognize his Government as the legal Government of Peru. Señor Calderon, however, has constantly refused the stipulation relating to Tacna and Arica, as he has had no evidence that the people would indorse it. I have proposed various compromises to reconcile the difference between the

parties, and at one time I thought that success was about to attend my efforts. For reasons not necessary to go over at this time, however, all these have failed, until at this moment it seems that the parties are farther apart than ever.

I need not state to your excellency the deep distress of the Peruvian people, as you are as familiar with their sad state as myself. My object in writing you is to make one last effort to bring about a peace through the recognition of the Government which your excellency represents.

Chile now claims that your excellency's proclamation of October 14 last, calling an election for members to a new congress, virtually declares that Señor Calderon has no authority to treat for peace, but that that faculty is reserved to the congress alone. I cannot concur in the opinion that the proclamation is meant to say this, nor can I believe that the executive has not a right to make a treaty under the constitution, provided that it be submitted to the congress afterwards for consideration. Article 2 of Chapter I of the constitution contains a general provision relating to the alienation of territory, but in the same instrument, and in a subsequent part, this article is modified in a very important way. Article 11 of Chapter XI gives the executive the right to make treaties and direct diplomatic negotiations, and this right carries with it, logically and legally, the right to make those treaties effective, by any necessary means. Thus, if a peace treaty is to be made, undoubtedly the right is implied to sequester the national territory, if it be necessary in order to make the treaty. In Article 16 of Chapter VIII the Congress is given the faculty of approving or disapproving treaties of peace, &c., made by the executive. There can be no doubt whatever of the legal right of the executive to make a treaty of peace and to sequester territory if it be necessary in order to accomplish the making of the treaty. The right of ratification or rejection is distinctly reserved to the Congress.

Under the construction of your proclamation heretofore mentioned, however, Chili declares the inexpediency of treating with Señor Calderon, even if the terms themselves were agreed upon. The situation to me appears critical in the extreme. Internal disorders, through the action of Iglesias and the expected arrival of Piérola, are imminent in Peru, and threaten to annihilate all that has been or will be left by the conquering army. It is claimed that a Government erected under either of those leaders would be

pledged to make a peace far more detrimental to Peru than that promised through my own negotiation.

As you are also aware, the Bolivian Congress has passed a resolution determining to make a truce, which will soon be followed, probably, by a peace. It is within my knowledge that Chili, for reasons connected with her own policy, is willing to make a truce with Bolivia, though she will deny it to Peru. Under the general laws of nations, allies are bound to protect each other in the making of peace, to a certain extent; but if Bolivia, in view of the absolute hopelessness of continuing the struggle, can be made to believe that Peru is resisting the inevitable and is thereby likely to bring utter destruction upon both nations, she will find a strong justification in breaking the alliance. In the event of the alliance being broken by the withdrawal of Bolivia, Peru will doubtless be compelled to submit to very severe terms of settlement.

I do not assume to speak from official knowledge in what I am now about to say, but simply to give you my opinion of the consequences of a failure of Peru to accept the Chilean terms of peace within a very short time. I have obtained from the Chilean Government, as before said, a *bona fide* offer to pay Peru \$10,000,000 cash for Tacna and Arica. This offer was obtained for Señor Calderon's immediate acceptance. But it is not a standing offer of peace. Upon the contrary, I have every reason to believe that if no settlement is reached until the Peruvian Congress assembles in March next, that Peru will be compelled to cede Tarapacá and Tacna and Arica, with out the payment of any money indemnity at all. If Señor Calderon could at once be legally empowered by your excellency to accept these terms of peace, I believe the Chilean Government would feel itself under moral obligation to me to pay this amount to Peru. If, however, the war is prolonged for four or five months longer, Chili will undoubtedly claim a just right to increase her demands.

As further resistance on the part of the allies would seem to be entirely useless, from a total lack of all resources to continue the war successfully, and as it seems certain that no belligerent interference by outside nations is to take place, it appears to me, your excellency, that every motive prompts to the immediate acceptance of terms which I sincerely believe to be more favorable to Peru than those which will be offered later, when it is demonstrated that the allies must of necessity accept any conditions offered to them.

Your excellency will excuse me for the frankness with which I speak. I am laboring for the interests of your excellency's people; and if it were only the question of saving \$10,000,000 to the Peruvian treasury, it would be a powerful motive for action in this terrible crisis. But when we consider the personal suffering of the people and the utter ruin staring them in the face, it seems to me there ought not to be a moment's hesitation about closing the struggle at once.

My Government has constantly maintained that it would be better for the ultimate interests of both Chili and the allies to settle the question at issue upon the basis of a money indemnity, without the cession of territory. The Government of Chili does not concur in that opinion, and such being the fact it is useless to discuss the matter. The practical question at issue is, have the allies the power to resist the demand for territory? As there can no longer be a doubt that they have not, then the wiser plan is to accept the inevitable and to obtain as many advantages as possible. By an immediate acceptance of the Chilean terms the sufferings of the Peruvians from an army of occupation will cease at once, and the sum of \$10,000,000 will be placed in the Peruvian treasury, which, it is my fear, will not be received if the settlement is postponed until the meeting of Congress.

The United States stipulated to pay Mexico for the great and rich territory in which are embraced California, Texas, and New Mexico the sum of \$15,000,000. The district of Tacna and Arica has but little intrinsic value—no guano, no nitrates, and but small agricultural possibilities. It is not even important to Peru as a military point in the protection of her territory. Yet Chili offers to pay for it two-thirds the sum paid by the United States for territory incomparably greater in extent and richer in resources than Tacna and Arica.

I could have made peace nearly two months ago if Señor Calderon would have accepted these terms. How much personal suffering has been endured, how much more Peruvian wealth has been lost in these two months your excellency can judge as well as I.

To Señor Calderon's unwillingness to comply with the sale of Tacna and Arica there is now added the other difficulty herein alluded to, viz, the feeling of the Chilean Government that, in view of your excellency's proclamation, there is nothing to be gained by treating with him. But one way out of the difficulty presents

itself, which is, for your excellency to immediately send a formal power to Señor Calderon to accept the Chilian terms. I beg leave to earnestly recommend this measure to your excellency. As the representative of a Government which throughout this whole struggle has most anxiously desired to lend its aid toward a satisfactory settlement of the difficulties dividing them, and as one who has studied the whole situation from an impartial standpoint, I do not hesitate to place on record my recommendation to this effect.

Both in my official and personal character, I assure your excellency of my entire willingness to render any assistance within my power, in the best settlement of the controversy between the Republics of the Pacific.

I embrace, &c.,

C. A. LOGAN

NO. 80. MANIFESTO OF THE "PEACE CLUB" OF LIMA

January 19, 1883

INTRODUCTION AND SOURCE.—Early in 1883 a movement to secure peace was headed by Manuel Iglesias, an influential citizen of northern Peru who had been in a military prison colony in Chile. He called a provisional congress at Cajamarca which named him supreme chief with the title of "Regenerator." A peace club was formed in Lima and the manifesto below was issued following the distribution of copies of Dr. Logan's letter to Sr. Montero which had ended all hope of intervention by the United States. *Executive Documents*, 48th Congress, 1st Session, Vol. I, No. 1, Pt. 1, p. 92.

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As truth can no more be bettered by falsehood than was Salmo-neus able to imitate the rays [probably lightening] of heaven, the hour of truth has at last arrived. For this reason we have decided to reproduce the letter of the American minister, Logan, to Rear-Admiral Montero.

This reproduction is for the people, because the journal in which it appeared has been exhausted, with the notable circumstance that to-day not a single copy is to be found.

In order that the Peruvian public may read, meditate, and resolve quickly, we insert it.

[Then follows the note of Dr. Logan to Sr. Montero]⁶⁷

Whoever studies this document cannot do less than clearly see where lies truth, where lies error; where is safety, and where ruin.

⁶⁷ See *supra*, Doc. 79.

Those who entertained placid illusions of all which was to come of the American legation, to-day that the same legation presents the naked truth, find it necessary to attack it with vigor and pertinacity.

Upon this account the advocates of the conclusion of the war do not need more persuasion than the authorized word of the American minister.

And all those who preserve love of country, of home, of dignity, and of liberty, will enthusiastically hasten to augment the ranks of the advocates of peace.

Because in this alone is to be found the tranquillity, the pacification, and the resurrection of Peru.

Without peace there exist only ruin and prolongation of slavery for a people who by so many titles are called to a higher destiny.

The Directory of the Peace Club

Lima, *January* 19, 1883.

No. 81. LETTER FROM JOSE ANTONIO LAVALLE ON CHORILLAS CONFERENCE

March 28, 1883

INTRODUCTION AND SOURCE.—The two persons most responsible for the Treaty of Ancón which technically ended the war were Jovino Novoa for Chile and Manuel Iglesias for Peru. Novoa of course was well instructed by his government and he shared most of his confidences with Admiral Lynch, military commander at Lima. As soon as the party of Iglesias got any following José Antonio Lavalle came from captivity in Chile to become Minister of Foreign Relations for General Iglesias, an old friend and teacher. In order to arrive at the meaning of the makers of the Treaty of Ancón it will be necessary to follow its evolution from the negotiations of Lavalle and Novoa.

Tentative proposals suggested by Minister Trescott and Mr. Logan may have suggested the basis for some of the provisions later written into the treaty, but none of the diplomats from the United States had anything to do with drawing up or discussing any of its terms. In fact they were ignorant of the Novoa-Lavalle parleys. The United States did not even recognize the presidency of General Iglesias until long after peace was signed. Under President Arthur and Secretary Frelinghuysen our government remained absolutely aloof in the treaty discussions.

The American minister in Lima, Mr. James Partridge, however, did give an anti-climax to previous efforts.⁶⁸ He had come to Lima without any instructions and uncertain as to which government he was accredited. These facts he soon indiscreetly divulged. In January 1883 he asked permission to go to Arequipa, the headquarters of Admiral Montero, to secure exequaturs

⁶⁸ See *supra*, Doc. 78, introduction.

for some consuls saying that while there he would broach the subject of peace terms. He then decided not to go and urged the Chilean envoys in Lima to make peace on the basis of the cession of Tarapacá, and the sale or cession of Tacna-Arica to Bolivia or its neutralization. As a separate peace was about concluded with Bolivia the suggestions were not well taken. He then advised the belligerents to negotiate directly without the intervention of any other country.

Then Minister Partridge took a strange course.⁶⁹ He called a secret meeting of the diplomatic corps which was attended by representatives of England, France, and Italy, at which it was the consensus of opinion that the interested neutral powers should intervene to establish peace. Some of the ministers spoke with great feeling upon the long occupation of Peru by Chile, but the British minister while agreeing with the rest as to the necessity of peace stated that he did not know with whom Chile could treat if she wished to. The Italian minister was named to make a report of the sense of the meeting to be sent to the several home chancellories. This abortive move for European intervention made at the instance of the representative of the United States was immediately nipped in the bud. Secretary Frelinghuysen promptly disavowed the act of Partridge and granted him a leave of absence previously asked for and made it effective on the next boat to Panama.

The Secretary of State was now quite ruffled. After explaining to the Senate and to foreign chancellories that the act was unauthorized he asked for an interview with the Chilean minister in Washington, Sr. Godoi. Godoi's predecessor, Martínez in a note of leave taking had made some criticism of Minister Trescott which Frelinghuysen considered impertinent and he bluntly demanded that the remarks be withdrawn. He plainly informed the Chilean minister that the pernicious prolongation of the war might cause an intervention much as such a step would be disliked by the United States. Of course the answer to this was that there was no government in Peru with which Chile could treat. If the weak policy of Frelinghuysen invited the intervention of European powers in the war such a policy would be harder to explain to the Senate than was the policy of Blaine whose purpose was to preclude such intervention.

After October 18 Chilean leaders began to make a serious effort to make peace with Peru. President Santa María feared the yellow fever in Peru and the changing attitude of Secretary Frelinghuysen. Sr. Calderón would not sign away the territory required for peace, Admiral Montero had stated publicly that he would burn off his right arm before he would do so, and General Andrés Cáceres, the other of the three leaders of remnants of Peruvian forces, could not be caught in the mountains. Chile now turned its attention to General Iglesias, a wealthy planter of Cajamarca unattached to any guano group, who was willing to make peace. Lynch secured a defection of part of General Cáceres' men in favor of General Iglesias who had but four hundred men paid from his own money. Later money was furnished him by Chile and no

⁶⁹ This caused a ripple of excitement in diplomatic circles in Lima where it was wondered if the United States had suddenly abandoned the Monroe Doctrine. South American writers usually treat Mr. Partridge's diplomacy with considerable hilarity.

constitutional requirements were placed on him as they had been on Sr. Calderón.

At the first discussions between Iglesias and Sr. Novoa, which were private, Novoa presented tentative bases for peace, or rather for the withdrawal from Lima of Chilean troops. Unsigned proposals were made on the basis of: (1) unconditional cession of Tarapacá to Chile, (2) sale of Tacna-Arica for 10,000,000 pesos on payments, (3) that Chile was not to assume any indebtedness of territories received but to complete the guano contracts made by the Chilean government, (4) Chile would continue administering the Lobos Islands until the 1,000,000 tons of guano were shipped, but as soon as the treaty of peace should be ratified Peru was to receive fifty per cent of the money received—the sum Chile was applying to Peruvian mortgages, (5) later treaties would be made to settle commercial relations and private war claims.

On March 27 at Chorillas, a suburb of Lima, the first formal conference was held where Sr. Novoa represented Chile and Srs. Lavalle and Castro Zaldívar, the latter a brother-in-law of Iglesias, represented General Iglesias. The results of the conference as represented by Lavalle to Iglesias follow. Translated from Búlness, *Guerra del Pacífica*, Vol. III, pp. 413, 14.

I went perfectly prepared for what might be the first and the last meeting, because, knowing the conditions contained in the note sent to you at Cajamarca and those that were imposed upon Sr. Calderón in Chile; knowing by the worthy letter which you wrote to Sr. Castro the 3d of March your opinions with respect to the foreign debt of Peru, and firmly resolved on my part not to sign anything that was unworthy of you and of me, and above all nothing that would not produce for our unfortunate country practical results and the great benefits of a lasting peace that would at the same time insure external peace and internal order. I judged that my interview with Señor Novoa would result in receiving his ultimatum, refusing it, in ending all negotiations and enduring the consequences which its rupture might bring to the nation and to us personally.

Fortunately it didn't turn out that way. Señor Novoa permitted me to give a long exposition of the situation of Peru with respect to Chile, to the whole world and to its own internal makeup; of your situation with respect to your own country, to foreign nations and to Chile; to deduce therefrom the vital necessity for you to treat on better terms than those made to Señor Calderón, and the necessity on the part of Chile to give them to you if she wished to arrive at peace with you, for if you were to do the same as Sr. Calderón the formation of your government were useless if not prejudicial to Peru.

Here I opened the discussion and Señor Novoa followed me in it on these two points: foreign debt and Tacna-Arica.

With respect to the first I stated categorically that Peru should perish rather than save herself by abandoning the rights of those who had trusted in her honor; that to pay Chile the war indemnity with what was not hers would be an infamous act on the part even of an obscure individual, and much more so for a nation; that I would never sign a peace that did not protect the rights of the creditors of Peru; and that, although I should wish to, I could not for the only authorization which we have, the only instruction which we had from you was to protect those rights, in support of which my colleague handed to Sr. Novoa your admirable letter to which I have referred and which visibly affected Sr. Novoa.

With respect to the second point I stated that the sacrifice of Tarapacá and of Iquique which did not represent more than riches, although immense, didn't matter to me, but that of Tacna-Arica horrified me; a man can sell his house or his lands or give them away, but a man cannot sell nor cede his brothers; I discussed the necessity or convenience to Chile of obtaining those provinces and finally I showed him that there might be formulas for all which without changing the essence of things might save injuring all those sensibilities (*salvasen todas las susceptibilidades*). Señor Novoa accepted the discussion on these points and after a very long and detailed discussion I concluded by proposing to him (I was surprised at my own audacity) the following modifications to the ultimatum which by the way now is not one.

"Peru cedes to Chile in payment of war indemnity the provinces of Tarapacá and Iquique with all the deposits of guano and nitrate which they contain 50% of the product of which Chile will apply to the foreign debt of Peru until it is paid, and as the product of the Lobos Islands are also involved, Peru cedes to Chile said deposits (not the islands) in order that their products may be applied to her creditors in equal proportion.

"The provinces of Tacna and Arica will remain in the power of Chile for ten years, at the end of which (*al fin de los cuales*) a plebiscite will be held by which their inhabitants will decide if they wish to return to Peru or be annexed to Chile or to another nation."

This is not a formal copy of articles for no text was prepared, just the bare ideas. Sr. Novoa objected at length to both conditions, but he didn't refuse them, agreeing finally to telegraph to his government for instructions upon points so different from those accepted by it and which he had supposed would never have to be discussed again.

PART III
DOCUMENTS RELATING TO CONSEQUENCES OF
THE TREATY OF ANCON

No. 82. THE TREATY OF ANCON

October 20, 1883

INTRODUCTION AND SOURCE.—This treaty technically ended the war. However it did not end hostilities, and one of its unfulfilled articles, commonly called the plebiscite clause, was the cause of forty years of bitterness.

During the last two years of the war Tarapacá was regarded lost to Peru and the question of peace hinged around the disposition of Tacna-Arica and the settlement of the Peruvian debts secured by mortgages on guano and nitrate deposits. On March 28, 1882, Chile had made an agreement with the holders of nitrate deposits in Tarapacá by which most of the mines which had been nationalized by the Peruvian law of monopoly were returned to their private owners. Chile refused to assume all the indebtedness of Tarapacá or all that secured by mortgages on deposits of guano in other parts of Peru. Since February 9, 1882, Chile had been selling guano and giving half the net returns to those holders of mortgages on guano who registered their claims in a manner prescribed. Chile renounced all further obligation for loans against the deposits of Tarapacá than the fifty per cent of the proceeds would pay. It was this sharing equally in the sale of Peruvian guano by Chile and the creditors of Peru that caused Secretary Blaine to say that the war was for the creditors of Peru, mostly English.⁷⁰ The Peruvian deposits on the Lobos Islands were to be retained under Chilean administration until the completion of the shipments of the million tons, but Chile agreed to give to Peru upon the ratification of the treaty the fifty per cent then being received from the sales of guano on Lobos Islands by the government of Chile.

While the financial provisions of the treaty brought a storm of protest from foreign governments the part which endangered most its ratification was that regarding Tacna-Arica. In the first negotiations for peace, the *Lackawanna* conference, Chile demanded just the disarming of Arica, expecting at that time the cession of only Tarapacá. By the terms of the Protocol of Viña del Mar Tacna-Arica was to be held for ten years and then Peru was to pay Chile twenty million pesos indemnity and leave Arica forever unfortified. In the summary of the negotiations made by Dr. Logan is seen for the first time the suggestion of a plebiscite as a method of determining the future ownership of Tacna-Arica. There were no Chileans in the region, but if nitrates were developed there as in Tarapacá there soon would be. Dr. Logan also suggested the sale of the region to Bolivia.

⁷⁰ See introduction to Doc. No. 47, *supra*.

The plebiscite solution seemed to meet two requirements for peace. Peru would not cede definitely Tacna-Arica. The Peruvian peace commissioner said that he could sell lands and properties, but could not thus dispose of his brothers and sisters. Chile had to continue occupying the region for military reasons, as an outpost and protection for the rich nitrate prize, Tarapacá. The postponing of the final disposition of the provinces was therefore an expedient. In Chile the plebiscite clause was understood in two ways. The president said that it was merely a deferred annexation because he thought that within ten years the region would be completely Chileanized. He had in mind the rapid colonization of Tarapacá by nitrate workers after it was captured. The congress of Chile accepted the plebiscite plan for different reasons. The ministry explained that Tacna-Arica was being secured in order then to cede it to Bolivia as a recompense for Atacama (Antofagasta). This, it explained, would satisfy Bolivia which country would have a better outlet to the sea than Atacama and would serve as a buffer against revindication of the captured nitrate coast by Peru.⁷¹

In Peru since the population of Tacna-Arica was practically all Peruvian it was confidently expected that an election at the end of ten years would result in the permanent retention of the territory. Thus while in Chile the plebiscite clause was considered as either a military expedient or a disguised cession—Chilean historians disagree on this point—in Peru it was considered a bona fide means of determining the disposition of the provinces and accepted as better than absolute cession.

It must be remembered however that the Treaty of Ancón was accepted in Peru and ratified by a small faction of that vanquished and disorganized country. On May 3 the plebiscite arrangement regarding Tacna-Arica was agreed to by representatives of Chile and General Iglesias. Chile then furnished him money to equip an army and sent a force against General Cáceres defeating him at Huamachuco in July 1883. Iglesias then moved down to the coast, secured the port of Trujillo, set up a government and asked for recognition. The United States ignored his cablegram asking for recognition, and few other countries recognized him. The final draft of the treaty was made at Ancón and was signed in Lima October 20. Chile withdrew her troops from the city and port, but left an army near to protect the faction of Iglesias and sent another force against Montero who was holding out at Arequipa. This move toward Arequipa was also directed at Bolivia where a truce was pending. The following text is from comparisons of several texts including Búlness, *Guerra del Pacífico*, Vol. III, pp. 521-524 and from the texts in the *Case of Peru, Exhibits*, Vol. II, pp. 174-176. There is no difference in the Spanish text in the *Case of Chile*. Following the text in English the Spanish version of Article III is given.

Article 1. The relations of peace and friendship between the Republics of Chile and Peru to be reestablished.

Article 2. The Republic of Peru cedes to the Republic of Chile in perpetuity and unconditionally the territory of the littoral pro-

⁷¹ Búlness, Gonzalo, *Guerra del Pacífico*, Vol. III, p. 494.

vince of Tarapacá, the boundaries of which are, on the north the ravine and River Camarones, on the south the ravine and River Loa, on the east the Republic of Bolivia, and on the west the Pacific ocean.

Article 3. The territory of the provinces of Tacna and Arica, bounded on the north by the River Sama from its source in the Cordilleras on the frontier of Bolivia to its mouth at the sea, on the south by the ravine and River Camarones, on the east by the Republic of Bolivia, and on the west by the Pacific Ocean, shall continue in the possession of Chile and subject to Chilean laws and authority during a period of ten years, to be reckoned from the date of the ratification of the present treaty of peace. Upon the expiration of that term a plebiscite will decide by popular vote whether the territory of the above-mentioned provinces is to remain definitely under the dominion and sovereignty of Chile or is to continue to constitute a part of Peru. That country of the two, to which the provinces of Tacna and Arica remain annexed, shall pay to the other ten million pesos of Chilean silver or of Peruvian soles of equal weight and fineness.

A special protocol, which shall be considered an integral part of the present treaty, will prescribe the manner in which the plebiscite should be carried out, and the terms and time for the payment of the ten millions by the nation which remains the owner of the provinces of Tacna and Arica.

Article 4. In compliance with the stipulations of the supreme decree of February 9, 1882, by which the Government of Chile ordered the sale of one million tons of guano, the net proceeds of which, after deducting the expenses and other disbursements, as referred to in Article 13 of said decree, will be divided in equal parts between the Government of Chile and those creditors of Peru whose claims appear to be guaranteed by lien on the guano. The sale of the million tons of guano referred to in the previous paragraph being completed, the Government of Chile will continue paying over to the Peruvian creditors 50 per cent of the net proceeds of guano, as stipulated in the above-mentioned Article 13, until the extinction of the debt or the exhaustion of the deposits now being worked.

The proceeds of deposits or beds that may be hereafter discovered in the territories that have been ceded will belong exclusively to Chile.

Article 5. If, in the territories that remain in possession of Peru, there should be discovered deposits or beds of guano, in order to avoid competition in the sale of the article by the Governments of Chile and Peru, the two Governments, by mutual agreement, will first determine the proportion and conditions to which each of them binds itself in the disposal of the said fertilizer.

The stipulations in the preceding paragraph will also be binding in regard to the existing guano now known and which may remain over in the Lobos Islands when the time comes for delivering up these islands to the Government of Peru, in conformity with the terms of Article 9 of the present treaty.

Article 6. The Peruvian creditors, to whom may be awarded the proceeds stipulated in Article 4, must submit themselves, in proving their titles and in other procedures, to the regulations stated in the supreme decree of February 9, 1882.

Article 7. The obligation which the Government of Chile accepts, in accordance with Article 4, to deliver over 50 per cent of the net proceeds of guano from the deposits now actually being worked, will be carried out whether the work be done by virtue of the existing contract for the sale of one million tons or through any other contract, or at account of the Government of Chile.

Article 8. Beyond the stipulations contained in the preceding articles, and the obligations that the Chilean Government has voluntarily accepted in the supreme decree of March 28, 1882, which relates to the saltpetre works in Tarapacá, the said Government of Chile will recognize no debts, whatever their nature or source, that will affect the new territories acquired by virtue of this treaty.

Article 9. The Lobos Islands will remain under the administration of the Government of Chile until the completion of the excavation from existing deposits of the million tons of guano, in conformity with Articles 4 and 7. After this they will be returned to Peru.

Article 10. The Government of Chile declares that it will cede to Peru, to commence from the date of the constitutional ratification and exchange of the present treaty, the fifty per centum pertaining to Chile from the proceeds of the guano of the Lobos Islands.

Article 11. Pending a special treaty to be entered upon, mercantile relations shall be maintained on the same footing as before April 5, 1879.

Article 12. Indemnities due by Peru to Chileans, who may have suffered damages on account of the war, will be adjudged by a tribunal of arbitration or international mixed commission, to be appointed immediately after the ratification of the present treaty, in the manner established by conventions recently adjusted between Chile and the Governments of England, France and Italy.

Article 13. The contracting Governments recognize and accept the validity of all administrative and judicial acts during the occupation of Peru arising from the military jurisdiction exercised by the Government of Chile.

Article 14. The present treaty will be ratified and the ratifications exchanged in the city of Lima, as soon as possible during a period not exceeding one hundred and sixty days to be reckoned from this date.

In testimony whereof the several respective Plenipotentiaries have signed this duplicate and affixed their private seals.

Done in Lima, the 20th of October, 1879 A.D.

Jovino Novoa

J. A. Lavalle

Mariano Castro Zaldivar

SPANISH TEXT OF ARTICLE III, THE PLEBISCITE CLAUSE

Art. 3. El territorio de las provincias de Tacna y Arica, que limita, por el norte, con el río Sama, desde su nacimiento in las cordilleras limítrofes con Bolivia hasta su desembocadura en el mar; por el sur, con el quebrado y río de Camerones; por el oriente, con la república de Bolivia, y, por el poniente, con el mar Pacífico, continuará poseído por Chile y sujeto a la legislación y autoridades chilenas durante el termino de diez años contados desde que se ratifique el presente tratado de paz. Expirado este plazo un plebiscito decidirá, en votación popular, si el territorio de las provincias referidas queda definitivamente del dominio y soberanía de Chile, ó si continúa siendo parte del territorio peruano. Aquel de los dos países á cuyo favor queden anexadas las provincias de Tacna y Arica, pagará al otro diez millones de pesos moneda chilena de plata, ó soles peruanos de igual ley y peso que ella.

Un protocolo especial, que se considerará como parte integrante del presente tratado, establecerá la forma en que el plebiscito deba tener lugar y los términos y plazos en que hayan de pagarse los diez millones por el país que quede dueño de las provincias de Tacna y Arica.

No. 83. TRUCE PACT BETWEEN CHILE AND BOLIVIA

April 4, 1884

INTRODUCTION AND SOURCE.—Chilean troops withdrew from Lima on October 23, 1883, and it was occupied by General Iglesias on the same day. Callao was turned over to the new régime also. Chilean forces were stationed in the suburbs, and certain hospitals in Lima were left for their use. The sum of 300,000 pesos a month was to be paid for the maintenance of those troops, which proved embarrassing to the new government. Sr. Iglesias has been severely condemned by his countrymen for accepting such terms, but with the growing desire of the officers of occupation to hold the country indefinitely he was probably much more of a patriot than a tool of the enemies of his country for he could not have remained in power a week nor could the treaty have been signed without the Chilean troops nearby.

While the United States did not recognize President Iglesias soon and Secretary Frelinghuysen thought the fifty per cent clause of the treaty was contrary to international law our new minister to Peru, Mr. S. L. Phelps, was instructed not to hinder ratification "although the terms were at variance with those the United States had counseled."⁷² The minister was instructed to express the opinion unofficially that Chile should recognize all the debts of the territory conquered. Eventually mixed commissions settled most of the claims except the Dreyfus claim which was but recently settled.

News was now received that there was a probability of European intervention to protest the Treaty of Ancón. Chile determined to invade Bolivia and force peace, a move which would be a convenient continuation of the campaign against Arequipa then being pushed forward. The Bolivian commissioners then accepted the truce. Translated from Prescott, *El Problema Continental*, pp. 308-313.

I

The Republics of Chile and Bolivia celebrate an indefinite truce, and, in consequence, they declare the state of war terminated, and that the same cannot be again carried on unless one of the contracting parties notifies the other, with at least one year of anticipation, of its determination to resume hostilities. In this case the notification shall be made directly, or through the diplomatic representative of a friendly nation.

II

The Republic of Chile, during the period that this treaty is in force, shall continue to govern according to Chilean law, the territories situated between the parallel 23° S. and the mouth of the River Loa. . .

[Here follows description of boundary line of Bolivia's former littoral.]

⁷² *House Documents*, 48th Congress, 1st Session, Doc. 1, Part 1, pp. 710, 711.

In case difficulties may arise, both parties shall appoint a commission of engineers, that shall fix the limits as indicated, subject to the landmarks here determined.

III

The property and goods confiscated from Chilean citizens, by Government edict, or by order of civil and military authorities, shall be immediately returned to their owners or to their representatives.

There shall also be returned the products that the Government of Bolivia may have received from these properties and that appear to be proved by the documents in the case.

The damages that in these cases have been suffered by Chilean citizens shall be indemnified by reason of the actions that the interested parties may bring before the Government of Bolivia.

IV

If no agreement can be arrived at between the Government of Bolivia and the parties interested, with respect to the amount of indemnity for the loss and damage suffered, the points in dispute shall be submitted to a commission of arbitration composed of three members, one named by Chile, one by Bolivia and the third to be named in Chile, by mutual accord, from among the representatives of neutral nations, resident in Chile. This commission shall be appointed as soon as possible.

V

Commercial relations are reestablished between Chile and Bolivia

• • • • •

Until an agreement to the contrary is made, Chile and Bolivia shall enjoy the commercial advantages and freedom that either nation accords to the most favored nation.

VI

At the port of Arica foreign merchandise shall pay, that entering for consumption in Bolivia, the customs dues in force by the Chilean tariff, this merchandise shall not pay, in the interior, any further duty. The sums received in payment of duty shall be divided in this way: 25 per cent shall be applied as dues received for merchandise to be consumed in the territories of Tacna and

Arica, and as working expenses, and 75 per cent shall be for Bolivia. . . .

VII

Any acts of the subaltern authorities of either nation that tend to alter the situation formed by the present treaty of truce, especially in what may refer to the limits that Chile continues to occupy, shall be repressed and punished by the respective governments, upon official notice or request.

VIII

As the object of the contracting parties, in celebrating this pact of truce, is to prepare and facilitate a solid and stable treaty of peace between the two republics, they reciprocally promise to carry on negotiations conducive to this object.

This pact shall be ratified by the Government of Bolivia in the term of forty days, and the ratifications exchanged at Santiago during the next month of June.

In proof of which, the Minister for Foreign Affairs of Chile and the Plenipotentiaries of Bolivia who showed their respective authorization and powers signed, in duplicate, the present treaty of truce, at Valparaiso, on the fourth of April of the year one thousand eight hundred and eighty-four.

(Signed) A. VERGARA ALBANO,
BELISARIO SALINAS,
BELISARIO BOETO.

No. 84. THE BILLINGHURST-LATORRE PROTOCOL

April 9, 1898

INTRODUCTION AND SOURCE.—The ratification of the Treaty of Ancón was not secured without great difficulty and much good fortune on the part of Chile.

The most formidable obstacle was the attitude of foreign governments whose citizens would lose money invested in Peruvian guano and nitrate loans. Many bondholders refused to accept the arrangement to receive in payment fifty per cent of the sale of a product when they had been secured by a full mortgage. Formal protests against the treaty were made by France, Italy, England, Holland, Belgium, and Spain. The United States Minister was instructed to object unofficially. While we had recognized the Calderón-Montero government nevertheless Secretary Frelinghuysen said the United States would not refuse to acknowledge the Iglesias government if it seemed to advance toward

an amicable adjustment of the difficulty.⁷³ The protests by so many powers might have prevented the ratification of the treaty had not France insisted on a preference for a claim of 70,000,000 francs for the house of Dreyfus of which company President Grévy had formerly been counsel.

The Treaty of Ancón was approved by the Chilean congress in January and by the Peruvian assembly in March, 1884. It was ten years from this date that the plebiscite was to be held in Tacna-Arica. The fatality of the whole matter lay in the failure to include the special protocol provided for before the treaty was ratified. President Santa María said he feared that no agreement could be reached regarding details of elections and a discussion of them would jeopardize the ratification of the treaty. Therefore no election protocol was included.

In 1892 negotiations were begun for a protocol for the plebiscite which would be due in 1894 and resulted in the Jimenez-Solar exchanges of January 26, 1894. Important conditions of the plebiscite could not be agreed upon, both nations experienced civil wars, and the time passed for the election. After much effort and several cabinet crises a protocol was signed by the executives of the two countries which was the only time during all the years intervening from the making of the ill-starred treaty until the Harding-Coolidge arbitration that the question really approached a settlement.⁷⁴ Peru was represented by Guillermo Billinghurst and Chile by Messrs. Latorre and Silva Cruz. Peru approved the protocol and it was favorably received by the Chilean senate, but finally rejected in the chamber of deputies. V. M. Maurtua, *The Question of the Pacific*, pp. 226-232.

Protocol Billinghurst-Latorre

The Governments of the Republic of Chile and of the Republic of Peru, desirous of arriving at a definite solution with regard to the dominion and sovereignty of the territories of Tacna and Arica, in conformity with the treaty of peace of October 20th, 1883, and also desirous of strengthening the relations of friendship between the two nations by eliminating a question that has pre-occupied them for a long time past, after examining and approving their credentials, have agreed upon the following convention, designed to facilitate the carrying out of Article III of the aforesaid treaty of October 20th, 1883:

Article I

There shall be submitted to the decision of the Government of her Majesty the Queen Regent of Spain, whom the high contracting

⁷³ Moore, J. B. "A Digest of International Law," *House Documents*, 56th Congress, 2d Session, Vol. I, p. 158.

⁷⁴ Note: Peruvian writers attribute the near settlement at this time to an Argentine crisis over the old Patagonia dispute and the rejection by the Chilean House of Deputies to the passing of the crisis.

parties designate in the character of arbitrator, the following points:

1st. Who have a right to vote at the plebiscite, that shall decide the permanent sovereignty and dominion over the territories of Tacna and Arica; determining the requisites of nationality, sex, age, civil condition, residence, or any others, that should qualify the voters.

2d. If the votation for the plebiscite should be public or secret.

Article II

A directive assembly, composed of a representative of the Government of Chile, of a representative of the Government of Peru and a third person appointed by the Government of Spain, shall preside the elections and take such resolutions as may be necessary to carry out the plebiscite. The president of the assembly shall be the person appointed by the Government of Spain.

The duties of this assembly are:

1st. To draw up and publish a general register of all persons that are entitled to vote.

2d. To decide all difficulties, doubts and questions that may arise connected with the inscriptions, votations and other acts of the plebiscite.

3d. To practice a general scrutiny of the votes, in view of the partial result obtained at each of the places fixed upon to receive votes.

4th. To proclaim the general result of the votation, immediately communicating this result to the Governments of Spain, Chile and Peru.

5th. To give all necessary orders and instructions for the due realization of the plebiscite, determined upon by the present convention.

All the resolutions of this assembly shall be determined by majority of votes. In case of difference, the casting vote of the member named by Spain shall decide.

Article III

Not later than forty days after the arbitration has pronounced a decision, as determined by Article I, the Governments of Chile and Peru shall proceed to name their delegates. The directive assembly shall be installed in the city of Tacna and commence its

duties within the term of ten days after the arrival at that city of the third delegate, named by Spain.

* * * * *

Article V

The directive commission shall determine, in conformity with the arbitral resolution, the means by which the possession by voters of the conditions required may be proved.

Article VI

The directive commission shall publish the registers within ten days after their reception, the names to be arranged alphabetically. This publication shall be made in the newspapers of Tacna and Arica, and in a separate form, to be posted in public places at Lluta and Tarata.

During the fifteen days following the said publication, the persons that have not been allowed to inscribe themselves and any person who wishes to prove undue inclusion of persons in the register, may present themselves before the directive commission. After this date no reclamation will be admitted, and the register is definitely formed with the modification that the directive assembly may have made; all which shall be immediately published in the form indicated in the first clause of this present Article.

* * * * *

Article VIII

Three days after the termination of the votation, at latest, the commission shall deliver up to the directive assembly of the plebiscite the acts and other documents of the partial votations.

Article IX

Six days after the termination of the votation the directive assembly shall proceed to make the general scrutiny from the partial acts, in public session, and in one sole act, till the proclamation of the result.

Article X

The directive assembly shall enjoy complete independence in the exercise of its duties, and has the right to demand from the authorities the assistance of public force to keep order, and to permit full liberty in carrying out the plebiscite.

* * * * *

Article XII

If the result of the plebiscite be favorable to Peru, the representatives of the Government of Chile shall deliver over to the Peruvian authority the territories of Tacna and Arica in the *maximum* term of fifteen days.

Article XIII

The Arica custom-house shall furnish funds for the expenses occasioned by the carrying out of the plebiscite in the territories of Tacna and Arica.

Article XIV

The fact of the appointment of a commission to make inscriptions and to receive votes at Tarata, accorded in the preceding Articles, does not imply a renunciation on the part of Peru, as regards the pending reclamation of Peru, concerning that part of the territories, nor does this imply the purpose of pretending to claim any indemnification for the period during which Chile has occupied it.

Article XV

The indemnity of ten million dollars, imposed by Article III of the treaty of October 20th, 1883, shall be paid by the country that becomes the possessor of the provinces of Tacna and Arica in the following manner: one million within the term of ten days, dating from the proclamation of the general results of the plebiscite; another million one year afterwards, and two millions at the end of each of the four following years.

These sums shall be paid in Peruvian silver *soles*, or in Chilean silver money, such as circulated at the time of the signature of the treaty of October 20th, 1883.

Article XVI

The total sum produced by the Arica custom-house shall be subject to the payment of the indemnity referred to in the preceding Article.

Article XVII

Within the term of sixty days from the date of the ratification of this present convention, the diplomatic representatives of the Republic of Chile and of the Republic of Peru accredited to the Court of Spain, shall jointly solicit of that government the accep-

tation of the arbitration referred to in Article I, and the appointment of the delegate referred to in Article II.

* * * * *

Memorandum. During the following conference the Minister for Foreign Affairs stated that though his Excellency the President of the Republic and the members of the Cabinet had accepted in all its parts the project of convention accorded, he personally considered it a duty of delicacy to abstain from signing it, because, as was notorious, a change of ministry was now taking place: he therefore judged it to be more correct to leave to the free appreciation of his successor either to give, or to abstain from giving, to this project the solemn character of an international engagement.

The Peruvian Ambassador stated that upon his part he would maintain the project in the form accorded, and that he was ready to sign it at any moment that the Government of Chile should consider convenient, regretting that the Chilean Minister was prevented from signing it from the motives of personal delicacy expressed, the elevated dignity of which he could not fail to respect.

Two copies of the present memorandum were signed at Santiago on April 9th, 1898, by the Chilean Minister for Foreign Affairs, Mr. Raimundo Silva Cruz, and by the Plenipotentiary on Special Mission of Peru, Mr. Guillermo E. Billinghurst, and sealed with their seals.

(Signed) RAIMUNDO SILVA CRUZ
 GUILLERMO E. BILLINGHURST

No. 85. TREATY OF PEACE AND FRIENDSHIP BETWEEN CHILE AND BOLIVIA

October 20, 1904

INTRODUCTION AND SOURCE.—Following the failure of the Billinghurst-Latorre negotiations a dispute arose over the administration of Tacna-Arica which Chile had organized as Tacna.⁷⁵ As a result Peru withdrew her minister and no diplomatic relations existed from 1901 to 1904.

During these years no definite peace had been made between Chile and Bolivia. Many notes and conversations had taken place. Bolivia had been given to understand that the matter was to rest until Chile should receive Tacna-Arica as a result of the plebiscite and then it would be ceded to her. Bolivia had many financial and other obligations with respect to her lost littoral that needed settlement. Bolivia received the famous König note which represented

⁷⁵ For full text of Billinghurst-Latorre Protocol see Maurtua, V. M. *The Question of the Pacific*, p. 226.

the climax of the Chilean policy of force only—a policy not approved by the better element. Abraham König was the Chilean plenipotentiary at La Paz. In a long note he said: “It is a common error and one that is reported daily on the street and in the press the opinion that Bolivia has the right to demand a port in compensation for her littoral.

“There is no such thing. Chile has occupied the littoral and has taken possession of it with the same title with which Germany annexed to the empire Alsace and Lorraine, with the same title by which the United States of North America has taken Porto Rico. Our rights are born of victory, the supreme law of nations.

“That the littoral is rich and worth many millions, that we already know. We keep it because it is valuable; if it were not worth anything there would be no interest in its conservation.”

This note was too harsh and Chile soon attempted to make a livable arrangement with Bolivia. The following peace treaty contains the terms of peace which was to succeed the indefinite truce which had existed since the end of the war in 1884. Some supplementary matter in the notes of exchange are omitted, but the essential articles of the treaty are given. It is the treaty which Bolivia claimed impossible and sought to have revised in its attempts to get a zone to the coast. Translated from Prescott, *El Problema Continental*, pp. 366-376.

Article 1. Relations of peace and amity are established between the republic of Bolivia and the republic of Chile, thereby ending the regimen established by the Pact of Truce.

Article 2. By the present treaty the absolute and perpetual dominion of Chile over the territories occupied by her in virtue of Article 2 of the Pact of Truce of April 4th, 1884, is recognized.

The dividing line from north to south between Bolivia and Chile shall be as follows:

[Here follows a geographical deliniation of limits corresponding closely to those of the former Bolivian littoral, the present Chilean Antofagasta.]

• • • • •

Article 3. For the purpose of cementing the political and commercial relations of both republics the High Contracting Parties agree to unite the port of Arica with La Paz by a railroad, the cost of which is to be paid by Chile, within one year from the date of the ratification of the present treaty.

The ownership of the Bolivian section of this railroad will pass to Bolivia at the end of fifteen years counting from the date that it is completed.

• • • • •

[Here follow some provisions for the subsidizing by Chile of guarantee

which Bolivia might make for the funds with which to build certain other roads connecting the territory of the two republics.]

Article 4. The government of Chile agrees to give to the government of Bolivia the sum of three hundred thousand pounds sterling in two payments of one hundred fifty thousand pounds each, the first payment six months after the ratification of this treaty and the second one year after the first payment.

* * * * *

[Article 5 provides that Chile shall pay several millions of pesos of debts or claims against Bolivia which grew out of nitrate and guano contracts in the captured littoral. Articles 6, 7, 8, 9, 10, and 11 provide for port and customs privileges for Bolivia.]

Article 12. All questions that might arise regarding the understanding or execution of this treaty shall be submitted to the Emperor of Germany for arbitration.

The ratification of this treaty shall take place within six months and the exchanges made in La Paz.

In faith of which, &c., Santiago, October 20, 1904.

EMELIO BELLO C.

A. GUTIERREZ

No. 86. INVITATION OF PRESIDENT HARDING

January 28, 1922

INTRODUCTION AND SOURCE.—From the nature of the treaty of Ancón, the circumstances under which it was imposed, and the failure to include the protocol specifying qualifications of voters before it was ratified difficulties were bound to arise soon. The expected guano discoveries and Chilean emigration did not materialize and but a few hundred Chileans lived in Tacna-Arica at the end of the ten years.⁷⁶ When the election failed to take place and the region automatically continued, "subject to Chilean laws and authority" there were bound to be administrative acts that would effect the nationality of the inhabitants.

Peruvian schools refused to teach the geography and history of Chile and inculcated loyalty to Peru in the new generation in the region. These schools were private and difficult for civil authorities to regulate. Accordingly, on May 14, 1900, the Chilean Governor of Tacna ordered them closed. Similarly the priesthood of the province was changed to Chilean. These decrees were vehemently protested by Peru, but Chile asserted a legal right to regulate such matters. Following the treaty between Chile and Bolivia in 1904 providing for the building of a railway by Chile across Tacna-Arica to Bolivia Peru protested that it was an infringement of her sovereign rights.

⁷⁶ Barreto, José Maria, *El Problema Peruano-Chileno (1884-1911)*, p. 196. Lima, 1911.

Peru also protested such acts as the Chileanization of the region for the purpose of winning the plebiscite when it should finally be held. There were direct efforts by Chile at homesteading and subsidizing cigar and other factories to increase settlement of Chileans in the region, but only the building of the railroad attracted many people. The gradual Chileanization of Tacna-Arica was brought about through long administration, the management of the port of Arica, by the railroad, and by persistent effort on the part of local officials and patriotic Chilean colonization societies.

Between the negotiations for the Billinghurst-Latorre protocol and the Harding mediation there was no serious intention by any chancellory of Chile to hold the plebiscite. The question often arises as to what became of the fabulous wealth which Chile secured as a result of the war. Much of it went for armaments. A civil war known as the Balmaceda Revolution in 1890 cost more than the War of the Pacific.⁷⁷ Following that expense the army and navy were increased out of all proportion to the size of the country. A hundred million pesos were spent on naval units and much more on coast defenses and army equipment during the next decade.⁷⁸ This increase was for the double purpose of defense against a reaction on the part of Bolivia and Peru against the settlement at Ancón, and trouble with Argentina. Until the Harding offer of mediation Chile rejected all agreements concerning arbitration and reduction of armaments proposed by the various Pan American conferences.⁷⁹ The revenue received from the captured nitrate provinces yielded the heaviest war indemnity per capita recorded in history.⁸⁰ However, so much national treasure was not an unmixed blessing. The Chilean citizenry became accustomed to so much government subsidization and so unused to paying taxes that when the nitrate exports for any reason fell off there resulted a national calamity. Facing the prospect of indefinite armed peace and perpetual domestic inquietude the civil (civilista) party in Chile in 1922, after opening direct negotiations accepted the invitation, extended at the suggestion of Peru, to send delegates to Washington to deliberate on the question.⁸¹ The text of the invitation is from *Tacna-Arica Arbitration, The Case of the Republic of Chile*, pp. 2, 3.

The Government of the United States, through the courtesy of the Ambassadors of Peru and Chile in Washington, has been kept informed of the progress of their negotiations carried on directly by telegraph between the two Governments of Peru and Chile looking toward a settlement of the long standing controversy with respect to the unfulfilled provisions of the Treaty of Ancón. It has noted with the greatest pleasure and satisfaction the lofty spirit

⁷⁷ Richardson, J. D., *Messages and Papers of the Presidents*, Vol. IX, p. 183.

⁷⁸ Valdés Vargara, Francisco, *Historia de Chile, Edición del Centenario*, Santiago, p. 352.

⁷⁹ Flint, Charles R., *Memories of an Active Life*, p. 155.

⁸⁰ *Wall Street Journal*, April 30, 1923.

⁸¹ For other steps leading to mediation see *supra*, introduction, pp. 17-20.

of conciliation which has animated the two Governments, and that as a result of these direct exchanges of views the idea of arbitration of the pending difficulties is acceptable in principle to both. It has also taken note of the suggestion that representatives of the two Governments be named to meet in Washington with a view to finding the means of settling the difficulties which have divided the two countries.

Desiring in the interest of American peace and concord to assist in a manner agreeable to both Governments concerned in finding a way to end this long standing controversy, the President of the United States would be pleased to welcome in Washington the representatives which the Government of Peru and Chile may see fit to appoint to the end that such representatives may settle, if happily it may be, the existing difficulties or may arrange for the settlement of them by arbitration.

No. 87. TELEGRAM OF BARTOLOME MATHIEU ON
HUGHES' FORMULA

July 6, 1922

INTRODUCTION AND SOURCE.—As a result of the Harding invitation representatives of Chile and Peru met at Washington May 15, 1922, to negotiate for a protocol. Bolivia had on November 1, 1920, appealed to the League of Nations for a seaport on the ground that the Treaty of 1904 was null and void. Chile challenged the appeal and secured good lawyers who said the league had no jurisdiction in the case.⁸² Bolivia adhered to Peru in not entering the League of Nations when it was seen that the United States was not entering. When the case of Peru was entrusted to Washington for solution Bolivia asked to sit in the conference, but was denied the privilege by President Harding.

It was clear from the beginning that Peru would ask the arbitrator to declare the plebiscite clause invalid and arbitrate the disposition of Tacna-Arica on historical grounds; while Chile would ask merely that the manner of holding the election be decided by arbitration. Each government had to give its constituency to understand that the mediation of the United States would be as stated above or their respective senates would not have ratified the protocol. When the conferences came to a deadlock over this point Secretary Hughes in order to avoid the failure of the attempt took a course that rendered our arbitration practically innocuous; it was perhaps all he could do for Chile would not submit to arbitration without reservations.

Chile secured an early advantage in the statement of the question, viz, "It is hereby recorded that the only difficulties arising out of the Treaty of peace

⁸² Davis, John W., "Two Judicial Reports," in the *Problem of the Pacific and the New Policies of Bolivia*, p. 178. Baltimore, 1924.

regarding which the two countries have not been able to reach an agreement, are the questions arising out of the unfulfilled stipulations of Article III of said Treaty.'⁸³ On May 27 Dr. Milton Porras representing Peru proposed the following: "For the purpose of determining the manner in which the stipulations of Article III of the Treaty of Ancon shall be fulfilled there shall be submitted to arbitration, whether in the present circumstances, the plebiscite shall or shall not be held.'⁸⁴ This was naturally followed by the following questions: "If it is not to be held, to which country will belong the final dominion of Tacna and Arica and under what conditions? If it is to be held, under what conditions shall the plebiscite take place?"

Chile rejected this as being outside of the offer contemplated in the invitation of President Harding. As soon as Secretary Hughes was advised of this deadlock he offered the following substitution: "For the purpose of bringing about a solution of the long standing controversy between the two countries having to do with the unfulfilled provisions of the Treaty of Ancon, they agree to submit to arbitration the questions arising out of the unfulfilled stipulations of Article III."

This was a happy suggestion so far as saving the conference was concerned for each side thought it had won. Secretary Hughes went farther and suggested that the parties include in another exchange of notes the statement that any decision of the arbitrator would not change the status of the territory, i.e. if the arbitrator held the plebiscite clause invalid it would not change the actual status of the territory under discussion; but that would be determined by the parties in later negotiations. The Chilean representatives hastened to recommend to their government the acceptance of that plan, saying: "Here we considered that, having been eliminated the only point which placed the fate of Tacna and Arica in the hands of a foreign arbitrator, submitting a popular referendum for (instead of) the decision of a third party, and expressly recognizing the fact that the declaration of the lack of foundation for the plebiscite did not alter the rights which, up to the present time, we have exercised in these territories, and which are given us by the treaty, the proposition was acceptable and thus it was accepted.'⁸⁵

The plan of Secretary Hughes did not bind Chile technically to accept arbitration except as the manner of holding the plebiscite, but morally it bound her to accept the good office of the United States for a settlement in case the plebiscite clause was held invalid by the arbitrator. Whatever decision President Coolidge might hand down Tacna-Arica would still be in the undisturbed possession of Chile. This ineffective formula was strongly recommended to Chile by Secretary Hughes who was over sanguine in the matter as indicated in his address opening the parley. The Appendix to the Case of Chile very properly shows the steps by which that country was led to accept the protocol. The following telegram of July 6 which may be assumed to be accurate although the translation is evidently bad, shows the conception of the arbitra-

⁸³ *Tacna-Arica Arbitration, Appendix To Case Of The Republic of Chile*, p. 653.

⁸⁴ *Ibid.*, p. 654.

⁸⁵ *Ibid.*, p. 656.

tion which was held by the representative of Chile. From *Tacna-Arica Arbitration, Appendix To The Case Of The Republic of Chile*, p. 636.

Washington, July 6, 1922

Ministry of Foreign Relations—Santiago.

No. 113. The Secretary of State sent for me to-day, Thursday, to tell me that, as a result of the consultation of the Peruvian Delegation with Lima, Porras had been to see him, signifying that Peru was resolved to abandon her demand for arbitration in the future and problematical negotiations with Chile, in the case of the arbitrator declaring that the plebiscite would not take place, it should be established now, in some form, that the two countries would accept the good offices of the United States in said negotiations.

Hughes explained to me that he was submitting the point for our consideration, deeming that it would not alter the essential nature of our situation in the case in question, since we would remain at liberty to accept or reject whatever formula or solution might be proposed, should the contingency arise; that the good offices in question would be such as he is exercising at this time, without compromising anyone. Hughes endeavored to persuade me that the concession was more apparent than real, that it had no significance for the situation in which we would remain in the event contemplated and he concluded by asking me to consult you.

Mathieu

No. 88. PROTOCOL AND SUPPLEMENTARY AGREEMENT OF WASHINGTON

July 20, 1922

INTRODUCTION AND SOURCE.—Something of the steps leading to the signing of this document by the representatives of Chile and Peru was related in the introduction to the previous document, No. 87. The Spanish text which follows the English is from a photographic facsimile in the *Boletín De La Unión Pan Americana*, October 1922. The English text may be seen also in *Tacna-Arica Arbitration, The Case of the Republic of Chile*, pp. 3-5.

Assembled in Washington, D. C., pursuant to the invitation of the Government of the United States of America for the purpose of reaching a solution of the long standing controversy with respect to the unfulfilled provisions of the Treaty of Peace of October 20, 1883, the undersigned representatives of Peru and Chile to wit:

Don Carlos Aldunate and Don Luis Izquierdo, Envoys Extra-

ordinary and Ministers Plenipotentiary of Chile on Special Mission; and

Don Meliton F. Porras and Don Hernan Velarde, Envoys Extraordinary and Ministers Plenipotentiary of Peru on Special Mission;

After exchanging their respective full powers, have agreed upon the following:

Article 1. It is hereby recorded that the only difficulties arising out of the Treaty of Peace, regarding which the two countries have not been able to reach an agreement, are the questions arising out of the unfulfilled stipulations of Article III of said Treaty.

Article 2. The difficulties referred to in the preceding article will be submitted to the arbitration of the President of the United States of America who shall decide them without appeal after hearing the parties and taking into consideration the arguments and evidence which they may present. The times and the procedure shall be determined by the arbitrator.

Article 3. The present Protocol shall be submitted for approval to the respective Governments and the ratifications shall be exchanged in Washington through the diplomatic representatives of Chile and Peru within the maximum period of three months.

Signed and sealed in duplicate in Washington, D. C., the twentieth of July, one thousand nine hundred twenty-two. The Supplementary Agreement reads as follows:

In order to determine with precision the scope of the arbitration provided for in Article 2 of the Protocol signed on this date, the undersigned agree to place on record hereby the following points:

First. The following question, raised by Peru at the session of the Conference held on May 27th last, is included in the arbitration:

For the purpose of determining the manner in which the stipulations of Article III of the Treaty of Ancon shall be fulfilled there shall be submitted to arbitration the question whether, in the present circumstances, the plebiscite shall or shall not be held.

The Government of Chile, on its part, may present to the arbitrator all the arguments that it may deem necessary to its case.

Second. In case that it is decided that the plebiscite shall be held, the arbitrator is empowered to determine the conditions under which it shall be held.

Third. If the arbitrator should decide that the plebiscite shall

not be held, both parties, at the request of either of them, shall discuss the situation created by this decision.

It is understood, in the interest of peace and good order, that, in this event, and pending an agreement as to the disposition of the territory, the administrative organization of the provinces shall not be disturbed.

Fourth. The two Governments shall solicit, in case that they should not reach an agreement, the good offices of the Government of the United States of America, in order that an agreement may be reached.

Fifth. The pending claims regarding Taratá and Chilcaya likewise are included in the arbitration, subject to the determination of the final fate of the territory to which Article III of the said Treaty refers.

This Act is an integral part of the Protocol to which it refers.

Signed and sealed in duplicate in Washington, D. C., the twentieth of July, one thousand nine hundred twenty-two.

[Spanish Text]

Protocolo De Arbitraje

Reunidos en Wáshington, D. C., en conformidad a la invitación del Gobierno de los Estados Unidos de América, para procurar la solución de la larga controversia relacionada con las disposiciones no cumplidas del Tratado de Paz, de 20 de octubre de 1883, los infrascritos, en representación de Chile y del Perú, a saber:

Don Carlos Aldunate y don Luis Izquierdo, Enviados Extraordinarios y Ministros Plenipotenciarios de Chile en Misión Especial; y

Don Melitón F. Porras y don Hernán Velarde Enviados Extraordinarios y Ministros Plenipotenciarios del Perú en Misión Especial; después de canjear sus respectivos plenos poderes, han acordado lo siguiente:

Artículo 1°—Queda constancia de que las únicas dificultades derivadas del Tratado de Paz sobre las cuales los dos Países no se han puesto de acuerdo, son las cuestiones que emanan de las estipulaciones no cumplidas del artículo 3° de dicho tratado.

Artículo 2°—Las dificultades a que se refiere el artículo anterior serán sometidas al arbitraje del Presidente de los Estados Unidos de América, quien las resolverá sin ulterior recurso, con audiencia de las Partes y en vista de las alegaciones y probanzas que éstas

presenten. Los plazos y procedimientos serán determinados por el Arbitro.

Artículo 3°—El presente Protocol será sometido a la aprobación de los respectivos Gobiernos y las ratificaciones serán canjeadas en Wáshington, D. C., por intermedio de los Representantes diplomáticos de Chile y del Perú, dentro del plazo máximo de tres meses.

Firmado y sellado en doble ejemplar, en Wáshington, D. C., el veinte de julio de mil novecientos veintidós.

Acta Complementaria

A fin de precisar el alcance del arbitraje estipulado en el artículo 2° del Protocolo suscrito en esta fecha, los infrascritos acuerdan dejar establecidos los siguientes puntos:

1°. Está comprendida en el arbitraje la signiente cuestión promovida por el Perú en la reunión celebrada por la Conferencia el 27 de mayo ultimo:

“Con el objeto de determinar la manera en que debe darse cumplimiento a lo estipulado en el artículo 3° del Tratado de Ancón, se somete a arbitraje si procede o nó, en las circunstancias actuales, la realización del plebiscito.”

El Gobierno de Chile puede oponer, por su parte, ante el Arbitro todas las alegaciones que crea convenientes a su defensa.

2°. En caso de que se declare la procedencia del plebiscito, el Arbitro queda facultado para determinar sus condiciones.

3°. Si el Arbitro decidiera la improcedencia del plebiscito, ambas Partes, a requerimiento de cualquiera de ellas, discutirán acerca de la situación creada por este fallo.

Es entendido, en el interés de la paz y del buen orden, que, en este caso, y mientras esté pendiente un acuerdo acerca de la disposición del territorio, no se perturbará la organización administrativa de las Provincias.

4°. En caso de que no se pusieran de acuerdo, los dos Gobiernos solicitarán para este efecto los buenos oficios del Gobierno de los Estados Unidos de America.

5°. Están igualmente comprendidas en el arbitraje las reclamaciones pendientes sobre Tarata y Chilcaya, según lo termine la suerte definitiva del territorio a que se refiere el artículo 3° de dicho Tratado.

Esta Acta forma parte integrante del Protocolo de su referencia.

Firmada y sellada, en doble ejemplar, en Wáshington, D. C., el veinte de julio de mil novecientos veintidós.

No. 89. OPINION AND AWARD OF PRESIDENT CALVIN
COOLIDGE

March 4, 1925

INTRODUCTION AND SOURCE.—The Opinion and Award was favorable to Chile in that the plebiscite clause of the Treaty of Ancón was held valid and the election ordered to be held. The conditions of voting were favorable to Peru and the contentions of Peru regarding the ownership of Taratá were sustained.⁸⁶ Chile won the main contention, that the plebiscite was to be held.

Peru maintained in her case that the plebiscite clause had been invalidated by lapse of time, that an election agreed upon to take place under conditions existing in 1894 could not be held under the conditions of 1925, that Chile had refused to hold the plebiscite for many years for the purpose of Chileanizing the provinces and that her policy of Chileanization was so violent that so many loyal Peruvians had been expelled or intimidated and so many Chileans induced by Chilean subsidy that a fair expression of the inhabitants as intended by the treaty of 1884 could not be secured in an election in 1925. Peru therefore asked the arbitrator to hold the plebiscite clause void and to award the provinces to her on historical grounds.

Chile denied all the above allegations and maintained that the only question before the arbitrator was the arbitration of the manner of holding the plebiscite. The contention was that the treaty was still in force.

President Coolidge admitted that most of the charges of Peru were true and regrettable, but that in the official record they were not sufficiently sustained to warrant the invalidation of the treaty which provided for the plebiscite. The full title of the Opinion and Award which comprises sixty-four pages is "*Opinion and Award of the Arbitrator In the Matter of the Arbitration Between the Republic of Chile and the Republic of Peru, with Respect to the Unfulfilled Provisions of the Treaty of Peace of October 20, 1883, Under the Protocol and Supplementary Act Signed at Washington July 20, 1922.*" Only the important decisional parts are given here.⁸⁷

The question whether a plebiscite shall or shall not be held depends upon the question whether the second and third paragraphs of Article 3 of the Treaty of Ancón are still in effect. If these provisions have not expired by lapse of time, if they have not been abrogated or discharged by the conduct of the Parties so that performance can no longer be demanded, the plebiscite should be held because that is the agreement. If that agreement for any reason

⁸⁶ *Opinion and Award*, p. 60. See supra, Introduction, pp. 12 and 21.

⁸⁷ The *Opinion and Award* may be secured from the Superintendent of Documents, Government Printing Office, Washington.

is no longer binding, then the plebiscite should not be held unless a new agreement for that purpose is made.

As the question thus relates to the construction, operation and obligation of this part of the treaty, the province of the Arbitrator is more narrow than the range of the arguments which have been presented. It is neither the duty nor the privilege of the Arbitrator to pass upon the causes or the conduct of the War of the Pacific, or upon the justice of the terms of peace, or upon the relations of either Party to the Republic of Bolivia, or upon the wisdom of the provisions of Article 3 of the Treaty of Ancon, or upon the economic effects of the treaty, or upon alleged general equities of the present situation, or upon any questions whatever which are aside from the meaning and efficacy of the agreement itself.

* * * * *

At the outset, it should be observed that the second and third paragraphs of Article 3 do not provide for the termination of their obligations by lapse of time. The Article contains no provision for forfeiture. It fixed no period within which the plebiscite must be taken. The plebiscite was to be had "*after* the expiration of that term," that is, after the ten years but no limit was defined. It was to be taken pursuant to a special agreement which it was left to the Parties to make. But no time was fixed within which the special protocol for the plebiscite was to be negotiated. Whatever may have been the reasons for leaving the matter thus at large, the fact remains that it was left without prescribed limit of time and the obligations of the Parties under the treaty must be determined accordingly.

If it be suggested that such an agreement—an agreement to agree with no time specified and no forfeiture provided—is unsatisfactory or meaningless, a three-fold answer presents itself, first, that the Arbitrator is not empowered to alter the treaty or to insert provisions, however, salutary they might be in his judgment viewing the matter retrospectively, which the High Contracting Parties did not see fit to include; second, that the Treaty of Ancon was a peace treaty—the parties were engaged in a devastating war. Apparently the Parties in 1883-1884 thought it better to agree that they would agree at some unspecified time in the future than to agree to disagree in the present. They may well have taken into account the fact that failure to agree upon the terms of a plebiscite when the matter came up again for adjustment would leave unsettled one

of the great issues of the War of the Pacific, and they may have believed that inasmuch as a reopening of hostilities on this account after a lapse of at least ten years was improbable and an amicable agreement would be in the interest of both parties, it was at once unnecessary and inadvisable to prescribe a time limit for the negotiations.

* * * * *

It is the contention of Peru, maintained with earnestness and eloquence, that Chile wilfully prevented the timely holding of a plebiscite and that her action in the course of her administration of the territory constituted a perversion of the conditions essential to the plebiscite as contemplated by the treaty; in short, that Chile by preventing the performance of Article 3 has discharged Peru from her obligations thereunder, and hence that a plebiscite should not now be held and that Chile should be regarded as a trespasser in the territory in question since the year 1894.

This contention raises two principal questions: *first*, with respect to the conduct of Chile in relation to the efforts to reach an agreement for a plebiscite; and, *second* with respect to her Administration of the territory of the provinces of Tacna and Arica.

* * * * *

From an examination of the history of the negotiations the Arbitrator is unable to find any proper basis for the conclusion that Chile acted in bad faith. The record fails to show that Chile has ever arbitrarily refused to negotiate with Peru the terms of the plebiscitary protocol.

* * * * *

The Arbitrator is of the opinion that so far as the negotiations for the special protocol are concerned neither Party can be charged with bad faith and that there is no ground for the conclusion that Chile's action in respect to these negotiations has resulted in the abrogation of the second and third paragraphs of Article 3 of the Treaty of Ancon or absolved Peru from the obligation to proceed to their fulfillment.

Chilean Administration in Tacna and Arica

It follows from what has been said that the provisions in question of the Treaty of Ancon must be regarded as still in effect unless the course of Chile in the administration of Tacna and Arica has been of such a character as to frustrate the purposes of these provisions and hence to deprive them of force.

* * * * *

The Arbitrator finds the conclusion inescapable that the territory continued "subject to Chilean laws and authority" pending the negotiations for the special protocol. The question then is whether this authority has been used in such a way as to frustrate the purpose of the agreement for the plebiscite.

The Arbitrator therefore holds that, with respect to the specific acts adduced by Peru as tending to show the subsidized introduction of Chilean citizens, either as a matter of law these acts were within Chile's right under the treaty during the period in which the territory is "subject to Chilean laws and authority" or there is no sufficient evidence to show that they were in fact committed.

While there is no sufficient evidence in the record to show that Chile has either suppressed or censored the Peruvian press of Tacna and Arica by operation of law or by action of the Chilean Government, there is satisfactory evidence to show that Peruvian newspapers were destroyed by mob violence in 1911. Although it is not possible on the evidence to charge this action to the Government of Chile, it does appear that the Peruvian newspapers have not been reestablished and the situation thus existing demands consideration in fixing the conditions of a possible plebiscite.

While the affidavits indicate that the enforcement of the law [conscription law] has been intermittent as to time and sporadic as to places and persons, and that many young Peruvians have not been molested even in places and at times when the law was being enforced against other Peruvians, they also indicate that in a considerable number of cases, particularly in the year 1923, the Chilean conscription laws have been used not so much for the obtaining of recruits (for so far the policy of leniency appears to have been reasonably well carried out) but with the result, if not the purpose, of driving young Peruvians from the provinces. So far as this has been done, the Arbitrator holds it to be an abuse of Chilean authority.

These charges [general persecution] in so far as they are serious, and some of them are very serious, are not sustained by credible and specific evidence. They rest on general declarations, and the Arbitrator is constrained to hold that these charges of general per-

secution are not adequately supported. There are also numerous charges of petty persecution, some of which if taken individually might be sustained, but all of which put together are not sufficiently serious to affect the decision of the weighty question under consideration.

Conclusion: The Arbitrator is far from approving the course of Chilean administration and condoning the acts committed against Peruvians to which reference has been made, but finds no reason to conclude that a fair plebiscite in the present circumstances cannot be held under proper conditions or that a plebiscite should not be had. The agreement which the Parties made that the ultimate disposition of the territory of Tacna and Arica should be determined by popular vote is in accord with democratic postulates.

It furnished when it was made a desirable alternative to a continuance of strife and it affords to-day a method of avoiding the recurrence of a not improbably disastrous clash of opposing sentiments and interests which enter into the very fiber of the respective nations. In agreeing upon a determination of the embittered controversy by popular vote, the Parties had recourse to a solution which the present circumstances not only do not render impracticable but rather the more imperative as a means of amicable disposition. The Parties in the Treaty of Ancon provided no alternative mode of settlement and made no provision for limitation of time or for forfeiture. It is manifest that if abuses of administration could have the effect of terminating such an agreement, it would be necessary to establish such serious conditions as the consequence of administrative wrongs as would operate to frustrate the purpose of the agreement, and, in the opinion of the Arbitrator, a situation of such gravity has not been shown.

The Arbitrator holds that the provisions of the second and third paragraphs of Article 3 of the Treaty of Ancon are still in effect; that the plebiscite should be held; and that the interests of both Parties can be properly safeguarded by establishing suitable conditions therefor.

• • • • •

[Here follow a delineation of conditions of the plebiscite and ample machinery for carrying out the same.]

No. 90. REPORT OF GENERAL WILLIAM LASSITER ON THE
ATTEMPTED PLEBISCITE

June 14, 1926

INTRODUCTION AND SOURCE.—Just as Secretary Hughes had been over optimistic about the first Washington conference which resulted in the sterile Protocol of Submission so was President Coolidge over sanguine about the plebiscite as a method of settling this famous case. Unfortunately he attempted to narrow "the province of the Arbitrator"⁸⁸ to the field of legalism rather than statesmanship and still more unfortunately hinged the award on a loose English translation of a word in the treaty in order to make it legal. Regarding historical aspects the arbitrator said, "Into the refinements of this debate it is not necessary to go" and again, "It is unnecessary to discuss the arguments on the question of sovereignty. It is sufficient for the purpose of the Arbitrator to take the express words of the treaty."⁸⁹

Analyzing briefly the opinion on which the award was based the following reasoning is found: (1) The plebiscite clause would be held invalid were the allegations of Peru proved that Chile had refused to hold the plebiscite and had officially Chileanized the provinces. (2) That the record submitted fails to show that Chile ever arbitrarily refused to negotiate the terms of the protocol. (3) That since by the terms of the treaty the territory was to "continue under Chilean law and authority" until the election provisions were made and since they were not made at all they had continued to remain under Chilean law and authority after the ten years, therefore Chile had a legal right to subsidize industries, to provide irrigation and homestead laws, to locate national military and judicial units, and to perform other acts which nationalized the region. (4) For the same reason it was not illegal to close Peruvian schools, conscript residents into the army (an indirect way of deporting, for many left to avoid military service.) Neither was the building of a railroad illegal although built with government funds. (5) The destruction of Peruvian newspapers was caused by mobs of Chileans and it was held that it was "not possible on the evidence to charge the action to the Government of Chile." (6) Regarding the occupation by Chile of three districts of Taratá and the creation of these with a part of Tacna into a "Department of Taratá," the districts were awarded to Peru, but their occupation by Chile held not to be offence enough to violate the treaty. (7) That since the language of the treaty said the plebiscite would be held *after* ten years it could well be held any time after ten years. (8) And finally, "The Arbitrator holds that the provisions of the second and third paragraphs of Article 3 of the Treaty of Ancón are still in effect; that the plebiscite should be held; and that the interests of both Parties can be properly safeguarded by establishing suitable conditions therefor."

The strangest part of the award is the literal linguistic rendition of the expression in the treaty, *expirado este plazo*. By this a legalistic sanction was given to the holding of an election forty years later—an election designed

⁸⁸ *Opinion and Award*, p. 6.⁸⁹ *Ibid.*, 19.

to take place ten years after the Treaty of Ancón. The word *expirado* is a past participle and of course could be translated loosely several ways such as, "this period expired," "this period being ended," "this period having expired," or "after the expiration of this period," in the sense of immediately or soon after. If the English word "after" in its indefinite sense had been intended the Spanish *después* would have been employed. A more specific expression than *expirado este plazo* would have been *al fin de los diez años*, at the end of the ten years, or *al terminarse este plazo*, this period being completed. In the negotiations before the treaty was finally drawn up all of these expressions were used as well as expressions about a period of five years and fifteen years and occupation until an indemnity were paid, so that interpreted either in the spirit of the makers of the treaty or in an understanding of the Spanish language there could have been no indefiniteness intended in the ten year period; the election was intended for 1894, the ten year period "being expired."⁹⁰

On April 2 the Peruvian Defense Commission presented a memorial to President Coolidge stating that before consenting to participate in the plebiscite Peru wished to express the opinion that the "Honorable Arbitrator has been led into a substantial error," regarding the translation of *expirado este plazo*. The memorial reiterated the Peruvian belief in the automatic nullification of the plebiscite clause at the end of the ten years. It also stated that already Chile had renewed the persecution of Peruvian inhabitants in Tacna-Arica to force as many as possible out of the region in anticipation of the plebiscite. Peru therefore requested the policing of the plebiscite area by the United States as the only safe means of holding a fair election.⁹¹ The President answered that while his award was final and without appeal he would explain the points in question. He said the word *after* in English had been used in one of the Peruvian documents, and that it was not a case of translation but rather of construction. He stated that to police Tacna-Arica would be "beyond the scope of the authority of the Arbitrator under the Terms of Submission and the findings of the Award."⁹² The President, however, stated that the powers of the Plebiscitary Commission which his award created "are ample to guarantee to every qualified voter full assurance of personal protection as well as the assurance that his vote may be freely cast and will be fairly counted."⁹³

Elaborate preparations were made in both Peru and Chile for the holding of the plebiscite. Both the election provisions of the award and the members of the commissions were of the highest order. General John J. Pershing was named by President Coolidge as chairman of the Plebiscitary Commission having general charge of the election. Chile named Agustin Edwards and Peru Manuel Freyre-Santander as their respective members. Colonel J. J. Morrow was named chairman of the Special Boundary Commission and staffs of ex-

⁹⁰ See supra, Docs. 76, 78, 79 and 82.

⁹¹ *The Memorial of Peru*, pp. 7, 8, 9. (Peruvian Defense Commission), Washington, 1925.

⁹² *Memorial of Peru and The Rulings and Observations of the Arbitrator*, p. 16.

⁹³ *Ibid.*, pp. 16, 17.

perts were designated to prepare for the election and the delineation of the boundaries. *La Vos del Sur*, a continuation of one of the papers destroyed by Chilean mobs in 1911, and local Chilean papers soon started a newspaper war which revived past animosities and created new ones. Members of the American staff were scarcely ashore at Arica before they saw the impossibility of holding a fair election without neutral police.

The Plebiscite Commission began its sessions on August 4. A committee of six drafted a plebiscite law under the provisions of the award. The Peruvian committeemen were Alberto Solomon and Anselmo M. Barreteo and the Chilean members Manuel Antonio Mairia and Galvarino Gallardo-Nieto; the North American members were William C. Dennis and Colonel E. A. Kreger. The law was a remarkable document containing 133 articles and requiring until January 27 of the following year to draft.⁹⁴ In the meantime friction between the rival nationals was extreme. All efforts on the part of the Commission to safeguard Peruvian interests were called partiality by the Chilean residents of Tacna-Arica and General Pershing was obliged to issue a statement before the Commission in his own defense.⁹⁵ The same day that the law was adopted General Pershing resigned from the Commission and General William Lassiter, Governor of the Panama Canal Zone, was named to succeed him.

Registration of voters was to have been begun on March 1 but was postponed to the 15th and again to the 27th. By this time the conviction had reached Washington that a fair plebiscite was improbable and a useless expense. From August 1925 to April 1926 the expenses of the Commission had amounted to \$702,000, to be borne equally by Peru and Chile. On February 16 the State Department through the ambassador at Santiago presented a memorandum inquiring if the good offices of the United States would be accepted for adjustment by direct negotiations. By the 25th it was accepted by both countries and negotiations were renewed at Washington. Chile was represented by Miguel Cruchaga-Tornal and Peru by Herman Velarde, ambassadors respectively of Chile and Peru. It was now decided to treat the case not as a deferred plebiscite but as the "Greater Tacna-Arica" question. The negotiations considered the requirements of Bolivia for a port, and the possibility of dividing or neutralizing Tacna-Arica.

In the meantime the tenseness in the plebiscite area had resulted in violence which the Plebiscitary Commission was powerless to prevent and on June 9 General Lassiter introduced a resolution stating that the plebiscite was impossible. On the 14th following he adjourned the Plebiscitary Commission and issued a long statement showing the extent and nature of the violence in the provinces, alleging that the local Chilean authorities abetted hired ruffians who persecuted Peruvians, and asserting that he could not proceed with an election under existing conditions. In the short time that the polls had been open only about 6,000 Chileans had registered and all Peruvians had refrained from participating, alleging persecution and intimidation. Thus the fifth intervention of the United States in the Tacna-Arica question failed.

⁹⁴ *United States Daily*, March 17, 1926. (Registration and election rules, full text).

⁹⁵ Collings, Harry T. "Friction Delays Tacna-Arica Plebiscite," *Current History*, January, 1926.

If the plebiscite award were a necessary step toward the final solution of the case it was not a complete failure. At least a legalistic formality was complied with. If that step is considered unnecessary then the plebiscite award was a mistake. If it results in the forming by the United States of a positive Pan American policy instead of the negativism of the old Monroe Doctrine it will be a valuable experience.

The following document is so disappointing to the expectations of the award, and pictures such a state of disorder in the plebiscite area that were it not for the high type of the witness it would not be believed by those unacquainted with the past history of the case. However, this does not mean that the residents of Tacna-Arica are all disorderly. Similar scenes were enacted in Kansas over Squatter Sovereignty and elections are not always peaceful in Herrin, Illinois. Tacna-Arica has merely demonstrated again the failure of a plebiscite as a method of deciding questions of large national interest. Text condensed from *The United States Daily*, June 19, 1926.

[General Lassiter's report cited instances of violence and terrorism under the following heads: Tacna riot of January 6, 1926; Tacna riot of March 5, 1926; Putre riots (described in a 400 page report on May 1 by an investigator of the commission); Outrages in Arica on May 14, 1926; Outrages in Tacna in May and June (several dates); Referring to the investigation of the attacks of May and June the report says:]

* * * * *

An analysis of the evidence compels the conclusion that this series of attacks upon the persons and property of Peruvians has been organized and executed by the so-called cowboys, who, according to the testimony of Filomeno Cerda, president of the Sociedad de Tacna y Arica of which they form a part, are maintained and financed by the Chilean government. The evidence clearly shows that the gangs of ruffians perpetrating these attacks have been permitted to operate without the slightest interference on the part of the police.

* * * * *

The testimony of over 50 Peruvian witnesses was taken by the examiner in connection with the above outrages. When the examination of Chilean witnesses was commenced, the Intendente of the Province refused to permit police officers, who had been regularly subpoenaed by the judge of the special court created by Chilean decree law number 451, to appear before the examiner to testify. In order to give the Chilean authorities and the accused Chilean assailants a further opportunity to testify concerning these incidents a second request was made in proper form upon the judge of the special court for the compulsory attendance of certain witnesses who had previously been subpoenaed, but who had failed to respond to the subpoena and also for the attendance of additional

Chilean witnesses but the authorities again interfered with the execution of the process of the judge of the Chilean special court. In consequence the evidence on the Chilean side is limited to such testimony as was given by the chief of police and the president of the Sociedad de Tacna y Arica before the attendance of Chilean witnesses was interfered with by the Chilean administrative authorities.

* * * * *

Viewed as a whole, the record discloses not only a series of unprovoked attacks upon persons and property but, what is more serious, a resulting state of terrorism and intimidation maintained through an organization financed by the Chilean government.

8. The recent series of outrages against Peruvians in Tacna having been brought by the President of the Commission to the attention of His Excellency, the Chilean member, the latter has apparently seriously entertained and has transmitted in reply expressed opinions of Chilean officials including the Intendente of Tacna to the substantial effect that the outrages in question were deliberately manufactured, or instigated, or committed, by Peruvians for the purpose of supporting the Peruvian contention that a fair plebiscite is impracticable in the plebiscitary territory under present conditions. I must confess that I am constrained to believe that the mere advancement of such a defense by the Chilean official is an admission of the weakness of the Chilean case. To claim that Peruvians are destroying Peruvian property, assaulting and beating Peruvian electors and sympathizers, and even committing murder such as appears to have caused the recent death in Tacna of the Peruvian Espinoza Cuellar, and that all of this is being done for purposes of Peruvian propaganda is to test the credulity of the most credulous.

* * * * *

12. Summing up, the outrages outlined above are merely illustrative of conditions that have marked a much longer period than that covered by them and that have existed in varying form but with similar purposes and results throughout the plebiscitary territory.

A reference to the records of the Commission and of the American delegation develops the fact that without going farther back than January of the present year there are to be found in the files many hundreds of reports and complaints of outrages against Peruvians

open and varied in character and widespread in point of time and place. It has been impossible with the personnel available fully to investigate all of those cases, but the number and variety of reports based upon the personal observation of the members of the staff of the President of the Commission and the evidence adduced in the cases that have been subjected to detailed investigation can leave no doubt in the mind of any impartial examiner into the facts that there have existed and still exist in the plebiscitary territory conditions utterly incompatible with the exercise by Peruvians of those legitimate plebiscitary activities essential to a free and fair expression of the will of the qualified electorate under the Award.

The inescapable conclusions must be arrived at that the Peruvian electorate has been physically reduced below its proper figure by such measures as forcible deportations, departures inducted by violence or threats, unexplained disappearances, discriminatory military conscription, and even assassination; that Peruvians who have been driven or frightened out of the plebiscitary territory have not been given by the Chilean authorities due opportunities or facilities to return to register and vote. That there has been a systematic widespread and effective terrorization of Peruvians brought about through violence of persons and property, through threats, oppression, and persecution; that Peruvians have been coerced into promising to vote for Chile, into promising to remain neutral in the plebiscite, into registering fraudulently on data supplied from Chilean sources, and have been subjected to other general and varied forms of interference with their electoral rights; that Peruvians have been denied the due and equal protection of the laws applicable to the plebiscitary territory; that Peruvians have been subject generally to unlawful restrictions, molestations, discriminations and other forms of interference with their plebiscitary rights; that Peruvian officials or plebiscitary personnel had been impeded and even subjected to assaults in the effort to discharge necessary or appropriate plebiscitary duties; that there have been general and deliberate misrepresentation and suppression of the real facts by the local Chilean authorities and by the local Chilean press; that the conditions above outlined have been brought about not only with the knowledge and implied approval of the Chilean authorities but in many cases with their connivance as evidenced by failure to restrain the criminal activities of certain

so-called patriotic or political organizations whose operations have been accompanied by unmistakable evidence of official support and approval.

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. . . Moreover the great principle of arbitration is involved. The hopes of mankind are fastened upon arbitration as the means, perhaps the only means, now available for settling the disputes between nations and preventing the desolation of war. But even these considerations could not justify me in closing my eyes to the truth or in deliberately sanctioning a proceeding which I am convinced by the force of indisputable evidence would have been not only in conflict with the Award of the Arbitrator but contrary to the agreements for the plebiscite and violative of the rights of one of the nations concerned. Arbitration was never intended as a cloak for such a wrong.

Notwithstanding the failure of this great effort let us hope that some means may yet be found for settling in a peaceful and just way the controversy over Tacna and Arica which has for so many years troubled the relations between Chile and Peru.

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